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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCIES: California Community Colleges
Department of Child Support
Services

A written comment period has been established commencing on **June 20, 2003** and closing on **August 4, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Trish Mayer, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the

proposed conflict of interest code(s). Any written comments must be received no later than **August 4, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 2303 (r) & (s), 2309 and 2311(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Fertilizing Materials.

A public hearing is not scheduled. A public hearing will be scheduled if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Notice is also given that any interested person may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 4, 2003.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber, to provide assurance to the consumer of commercial fertilizers that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer, guaranteeing, labeling, and distribution of fertilizing materials as deemed necessary to circumscribe and prevent misbranded and adulterated fertilizing materials to protect California's agricultural industry and the consumer (Food and Agricultural Code, Section 14502, 14681, and 14682).

Section 2303 provides labeling information for fertilizing materials required by Section 14631 of Food and Agricultural Code. The amendment of Section 2303(r), clarifies the definition of base fertilizing materials ingredients by changing the examples of zinc, iron, and manganese base fertilizing materials ingredients from 36% zinc product, 12% iron product, and 7% manganese product to the new examples of zinc oxide, zinc sulfate, zinc from galvanizer skimmings, zinc from electric arc furnace dust, metallic zinc, refined zinc from the copper pickling process, zinc from circuit board recycling, iron II & III oxides, iron ore deposits, iron from recycling of bailing wire, rust or photographic operations, and manganese oxide. Also it adds the term "singly or" to indicate base fertilizing materials ingredients may be used as is or in various concentration levels in formulated or blended products; and corrects an editorial error in subsection (s) to provide an informational statement regarding the metals concentration levels in parts per million only for packaged commercial fertilizer and agricultural minerals via the label, internet access or an 800 num-

ber. Also, it specifies that the informational statement report maximum levels of heavy metals in "parts per million".

Section 2309 defines labeling requirements for phosphorus materials. The amendment of Section 2309, adds subsection (a), which provides for labeling guarantees for percent total phosphoric acid in phosphorous acid products and labeling information to the user regarding foliar and soil application to achieve best results.

Section 2311 defines slow released plant nutrients. The amendment of Section 2311 revises subsection (b) by adding item number "(5)" to recognize phosphorous acid products such as potassium phosphite and ammonium phosphite as a type of slow released plant nutrient products.

There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Sections 2303, 2309, 2311 do not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no cost or savings to any state agencies and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) cre-

ate new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Sections 2303, 2309, and 2311 pursuant to the authority vested by Sections 407 and 14502, and 14631 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to amend Sections 2303, 2309, and 2311 to implement, interpret and make specific Sections 14631 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESSES

The amendment of these regulations may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: Maryam Khosravifard, California Department of Food and Agriculture, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Sacramento, California 95814, phone (916) 445-0444. Written comments may be sent via, fax to (916) 445-2107 and e-mail to mkhosrav@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person

interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

FINAL STATEMENT OF REASONS AND INTERNET ACCESS

The final statement of reasons when available can be obtained from the agency contact person or internet at

<http://www.cdfa.ca.gov/newsinfo/regulations.html>.

Documents pertaining to this rule making action may be accessed at

<http://www.cdfa.ca.gov/newsinfo/regulations.html>.

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend regulations contained in Title 4, Division 9, Chapter 1, Article 1, Section 4001 to update tolerances and specifications for commercial weighing and measuring devices.

A public hearing regarding this proposal is not currently scheduled. However, any interested person or duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be scheduled.

Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the Department of Food and Agriculture, upon its own motion or at the instance of any interested person, may thereafter adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards, 8500 Fruitridge Road, Sacramento, California 95826. Comments may also be submitted by facsimile (FAX) at (916) 229-3026 or by e-mail at DMS@cdfa.ca.gov. Comments must be submitted prior to 4:30 p.m. on August 9, 2003.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Secretary of the Department of Food and Agriculture is granted the authority to adopt such regulations as are reasonably necessary to carry out the provisions of the Business and Professions Code, Division 5, Section 12107. This section in part requires the Department to adopt, by reference, the latest standards as recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology

(NIST), Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices," except as specifically modified, amended or rejected by the Department.

This proposal would amend regulations contained in Title 4, Division 9, Chapter 1, Article 1, Section 4001 by adopting an exception to NIST Handbook 44, Section G-S.1.1 and the definitions in Appendix D for "remanufactured device", "repaired device", "remanufactured element", and "repaired element". California already has a definition of "Repair" in California Business and Professions Code Section 12531, "Service Agency". Subsection (b) defines a Service Agent as any person employed to repair a commercial device and subsection (f) defines "Repair". NIST Handbook 44, Section G-S.1.1 and the definitions in Appendix D for "repaired device", "remanufactured device", "repaired element", and "remanufactured element" conflict with this section.

The effect of the NIST Handbook 44 requirements is to create new definitions and to set identification and marking requirements for "repaired" commercial weighing and measuring devices which are similar to, but inconsistent with California law and regulations already adopted pursuant to Business and Professions Code Section 12531.

Title 4, Division 9, Chapter 4, Section 4085, "Responsibility of a Service Agency" already requires marking and reporting requirements from "service agents" who "repair" or "remanufacture" commercial weighing and measuring instruments which adequately fulfills the intent of NIST Handbook 44 Section G-S.1.1. The section and its related definitions are therefore unnecessary.

SECTION 4001. EXCEPTIONS

As provided for in Stats. 1993, Chapter 621, Business and Professions Code, Section 12107, this proposal adds G-S.1.1 and the definitions in Appendix D for "remanufactured device", "repaired device", "remanufactured element", and "repaired element" to the list of NIST Handbook 44 sections that California is not adopting.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Secretary has initially determined that this proposal does not impose a mandate on local agencies or school districts.

The Secretary has also initially determined that this action will involve no costs or savings to any other state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has initially determined that the proposed action will not affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed action will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

It is anticipated that there will be little or no cost impact on private persons or business since this exception will prevent new and different requirements for Service Agencies from being implemented in California. Businesses who employ service agencies will not be affected since this proposal will not result in new or different requirements and existing requirements already adequately require service agents to identify their work.

ASSESSMENT REGARDING EFFECT ON JOB/BUSINESSES

The Department has made an initial assessment that the proposed regulation would not: (1) create or eliminate jobs within California; (2) create new business or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business in California.

ALTERNATIVES CONSIDERED

The Secretary must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE

Pursuant to Business and Professions Code, Division 5, Sections 12027 and 12107.

CONTACT PERSON

Inquiries regarding the notice or the substance of the proposed regulatory action may be directed to Roger Macey, Branch Chief, Division of Measurement Standards at (916) 229-3043 or Ken Lake, Program Supervisor, Division of Measurement Standards at (916) 229-3047.

EFFECT ON SMALL BUSINESS

The Department has made an initial assessment that the proposed regulation will provide a significant

savings for small business since this exception will prevent new and different requirements for Service Agencies from being implemented in California.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons, and the proposed regulation in **strikeout and underline** form may be obtained upon request. The rulemaking file, and all information on which the proposal is based, is located at the Division of Measurement Standards, 8500 Fruitridge Road, Sacramento, California 95826, and may be obtained upon request. Additionally, all documents relating to this rulemaking file may be obtained from the Department's web site located at www.cdfa.ca.gov/dms.

Following the written comment period, the Department will adopt the proposal substantially as set forth above without further notice. If the regulation adopted by the Department differs from but is sufficiently related to the action proposed, it will be available to the public for at least 15 days prior to the date of adoption. Any interested person may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

A Final Statement of Reasons, when available, may be obtained by contacting Roger Macey, Branch Chief, Division of Measurement Standards, at (916) 229-3043.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day

[Notice published June 20, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Thursday, August 7, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of

such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, August 5, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education

LEGAL DIVISION

1430 N Street, Room 5319
Sacramento, California 95814
Telephone : (916) 319-0641
E-mail: medregs@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 33031 and 49423.6, Education Code.

Reference: Sections 33308.5, 44877, 49414, 49423 and Part 30 (commencing with Section 56000), Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Education (CDE) has received and responded to concerns and issues from school administrators, parents and guardians, physicians, school nurses, and community agencies regarding medication administration in schools. Education Code section 49423 provides statutory authority for provision of medication administration and assistance with medication administration in California schools. The language of Education Code section 49423 has been interpreted as permissive and instances of requests to administer medication (or to render assistance with medication administration) being denied have been reported. Further, the Education Code currently does not provide statutes for implementation.

In April 1995, a representative group of parents and community agencies presented their concerns regarding the health and safety of students to the Commission on Special Education (Commission) due to the denial of medication administration and health care services in the schools as prescribed by physicians, lack of training for school staff designated to provide these services, and lack of supervision of school staff

providing these services. In response to these concerns, the Commission requested that CDE issue an advisory to local education agencies regarding medication administration in school. CDE issued an advisory in September 1997.

From March 1998 to August 2000, CDE continued to receive many calls from school districts, parents and guardians, physicians, and school nurses with concerns and questions regarding medication administration in school. CDE developed a Q&A page on its web site to address these questions

(<http://www.cde.ca.gov/spbranch/sed/healthup/meds1.htm>).

Senate Bill 1549 was signed by the Governor on August 31, 2000. This bill added Section 49423.6 to the Education Code and required regulations be developed, regarding the administration of medication in the public schools. The bill required that the regulations be developed in consultation with parents, representatives of the medical and nursing professions, and others jointly designated by the Superintendent of Public Instruction, the Advisory Commission on Special Education, and the Department of Health Services.

The Medications Committee (Committee), as the consultative group came to be known, was convened to begin developing regulations. The Committee used current standards of health care practice, and input from parents and guardians, physicians, school nurses, school administration staff, and community agencies to develop these regulations.

The Committee also considered information received from phone calls received by CDE from school districts seeking guidance on various problems and constraints related to medication administration services. Rural school districts, state border school districts, districts with few school nurses, and districts without school nurses face unique challenges in administering medications. In addition some districts raised issues related to the challenge of administering medications using different methods and with new technologies never before encountered in the school environment. The need for direction in the provision of over-the-counter medication administration in schools was also brought to the attention of the Committee, and has surfaced through proposed legislation. There is no specific statutory authority, however, upon which to base regulations for the administration of non-prescribed over-the-counter medications, and therefore these proposed regulations do not cover non-prescribed over-the-counter medications.

These various issues that needed addressing required the Committee to conduct extensive research and review more standards of healthcare practice for accommodating these needs in schools, and resulted in a request for an extension of time for completion of regulations for consideration by the State Board of

Education. The regulations were further delayed in order to address fiscal issues, and specific issues raised to the State Board.

These proposed regulations for the Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day provides clarification for implementing Education Code section 49423. Specifically, these regulations help clarify who may administer medications to pupils requiring medication (or assist pupils with medication administration) during the regular school day, under what conditions such administration of medications (or assistance with administration of medications) may occur, and related issues, such as delivery, administration documentation, and disposal of medications.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: There will have no affect on small businesses because they only provide clarity for schools on a permissive statute related to medication administration and assistance with medication administration during the regular school day.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying

out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Davis-Aldritt, Consultant
California Department of Education
School Health Connections
1430 N Street, Suite 6408
Sacramento, CA 95814
E-mail: medregs@cde.ca.gov
Telephone: (916) 319-0284

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0642.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

NOTICE OF PROPOSED RULEMAKING

The Public Employment Relations Board (Board) proposes to amend the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend sections 32120, 32125, 32135, 32603, 32605, 32620, 32635, 32798, 32980, 61000, 61090, 61240, 61380, 61420, and 61480. Section 32120 concerns the filing by employers of copies of collective bargaining agreements. Section 32125 concerns the filing by exclusive representatives of copies of financial reports. Section 32135 addresses requirements for proper filing of documents with the Board. Section 32603 defines employer unfair practices under the Meyers-Milias-Brown Act (MMBA). Section 32605 addresses the number of copies of documents required to be filed in unfair practice cases. Section 32620 concerns case processing procedures in unfair practice cases. Section 32635 addresses procedures regarding the review of dismissals of unfair practice charges. Section 32798 concerns the appointment of factfinding chairpersons in disputes under the Educational Employment Relations Act (EERA) and the Higher Education Employer-Employee Relations Act (HEERA). Section 32980 addresses enforcement of final Board orders in unfair practice cases. Section 61000 defines circumstances under which regulations contained in Subchapter 2 of Chapter 5 of the Board's Regulations will apply to MMBA parties. Section 61090 concerns the granting of recognition by an employer under the MMBA. Section 61240 addresses Board procedures relating to the determination as to sufficiency of employee proof of support for a representation petition under the MMBA. Section 61380 concerns the

investigation and processing of decertification petitions under the MMBA. Section 61420 concerns the investigation of severance petitions under the MMBA. Section 61480 addresses the investigation of unit modification petitions under the MMBA.

PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on September 11, 2003, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on September 4, 2003. Written comments will also be accepted at the public hearing. Submit written comments to:

Robert Thompson
General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95184
FAX: (916) 327-6377
E-mail: RThompson@perb.ca.gov

AUTHORITY AND REFERENCE

Government Code section 3509(a) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milias-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Pursuant to Government Code section 3541.3, the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-

Employee Relations Act (HEERA). General reference for section 32120 of the Board's regulations: Government Code Sections 3513(h), 3524, 3541.3(n), 3563(m) and 3541.3(f), (g). General reference for section 32125 of the Board's regulations: Government Code Sections 3513(h), 3524, 3541.3(n) and 3563(m). General reference for section 32135 of the Board's regulations: Government Code Sections 3509, 3513(h), 3541.3(n) and 3563(m). General reference for section 32603 of the Board's regulations: Government Code Sections 3502, 3502.1, 3505, 3505.2, 3505.3, 3506, 3507, 3508.1, 3508.5 and 3509, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 32605 of the Board's regulations: Sections 3509, 3513(h), 3514.5, 3541.3(i), 3541.5, 3563(h) and 3563.2. General reference for section 32620 of the Board's regulations: Government Code Sections 3509, 3513(h), 3514.5, 3519, 3519.5, 3541.3(i), 3541.5, 3543.5, 3543.6, 3563(h), 3563.2, 3571, 3571.1 and 3571.3, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 32635 of the Board's regulations: Government Code Sections 3509, 3514.5, 3519, 3519.5, 3541.5, 3543.5, 3543.6, 3563.2, 3571, 3571.1 and 3571.3. General reference for section 32798 of the Board's regulations: Government Code Sections 3548.1 and 3591. General reference for section 32980 of the Board's regulations: Government Code Sections 3509, 3514.5(c), 3520, 3541.5(c), 3542, 3563.3 and 3564, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 61000 of the Board's regulations: Government Code Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3. General reference for section 61090 of the Board's regulations: Government Code Sections 3507, 3507.1(a), 3509 and 3541.3(l). General reference for section 61240 of the Board's regulations: Government Code Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l). General reference for section 61380 of the Board's regulations: Government Code Sections 3507, 3507.1, 3509 and 3541.3(c), (h) and (l). General reference for section 61420 of the Board's regulations: Government Code Sections 3507, 3507.1, 3509 and 3541.3(a), (e), (h) and (l). General reference for section 61480 of the Board's regulations: Government Code Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e).

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Section 32120 concerns the filing by employers of copies of collective bargaining agreements. The deletion of the automatic filing requirement would save staff time spent filing such documents, many of

which are never utilized. The change would also save time and expenses for school districts and other covered employers. The amended section would continue to guarantee, however, that information necessary to case processing would be available to the Board in a timely manner.

Section 32125 concerns the filing by exclusive representatives of copies of financial reports. The deletion of section 32125, subsections (a) through (d), would modify requirements that exclusive representatives file their financial report with PERB. Such filing is not required by the statutes, the change would save staff time filing the reports which is better spent on case processing, and the regulations would continue to reflect our statutory duty and authority under EERA, HEERA, and the Dills Act to compel compliance with financial reporting requirements. The regulation would also continue to guarantee that the Board could obtain information necessary for case processing.

Section 32135 addresses requirements for proper filing of documents with the Board. These changes would, first, clarify existing language regarding the necessity of filing an original as well as any required copies. In addition, the revised regulation language would ensure greater certainty and consistency regarding the filing date by eliminating exceptions to the general rule (date of receipt) that are based on the manner used to transmit or deliver documents.

Section 32603 defines employer unfair practices under the Meyers-Milias-Brown Act (MMBA). The amendments to subsection (b) are necessary to correct a renumbering of MMBA section 3508 enacted by the Statutes of 2002, Chapter 865, and to add a reference to a provision added to the statute, in MMBA section 3507.1, by Statutes of 2001, Chapter 790.

Section 32605 addresses the number of copies of documents required to be filed in unfair practice cases. The intent of the proposed change is to reduce the number of copies of documents that are required to be filed with the Board. This change will reduce costs for parties, and reduce processing time and storage required of the board for extra copies.

Section 32620 concerns case processing procedures in unfair practice cases. The proposed addition of language to section 32620(c) is intended to eliminate the filing of confidential responses to unfair practice charges. This new language will allow the board agent investigating the charge to more efficiently process the case. In addition this change would mandate that the responses become part of the official file and thus available to the Board in a case where the charge was dismissed and appealed. The proposed addition of subsection (d) will place into regulation a practice that has developed to provide due process to parties in the charge investigation process.

Section 32635 addresses procedures regarding the review of dismissals of unfair practice charges. The deleted language references the regulation concerning documents that may remain confidential. The Board's consideration of information on appeal that has not been served on the opposing party is contrary to due process considerations.

Section 32798 concerns the appointment of fact-finding chairpersons in disputes under the Educational Employment Relations Act and the Higher Education Employer-Employee Relations Act. The proposed changes to section 32798 are consistent with statutory provisions and reflect operational changes made due to lack of funds.

Section 32980 addresses enforcement of final Board orders in unfair practice cases. The changes to this section are intended to clarify existing authority and procedures.

Section 61000 defines circumstances under which regulations contained in Subchapter 2 of Chapter 5 of the Board's Regulations will apply to MMBA parties. The proposed amendments to section 61000 are required by the enactment last year of Assembly Bill 2224 (Statutes of 2002, Chapter 341), which, inter alia, extended PERB's jurisdiction to include certain representation disputes of the Sonoma-Marín Area Rapid Transit District.

Section 61090 concerns the granting of recognition by an employer under the MMBA. This change is necessary to conform the regulation section to changes enacted to MMBA in 2001 (Statutes of 2001, Chapter 790; Assembly Bill 1281), specifically the addition of Government Code section 3507.1(c). MMBA section 3507.1(c) requires the granting of recognition to a petitioning employee organization in an appropriate unit where the petitioner demonstrates proof of majority support and there is no other petitioning organization with at least 30 percent support.

Section 61240 addresses Board procedures relating to the determination as to sufficiency of employee proof of support for a representation petition under the MMBA. This change is necessary to conform the regulation section to changes enacted to MMBA in 2001 (Statutes of 2001, Chapter 790; Assembly Bill 1281), specifically the addition of Government Code section 3507.1(c). MMBA section 3507.1(c) requires the granting of recognition to a petitioning employee organization in an appropriate unit where the petitioner demonstrates proof of majority support and there is no other petitioning organization with at least 30 percent support.

Section 61380 concerns the investigation and processing of decertification petitions under the MMBA. This change is necessary to conform the regulation section to changes enacted to MMBA in

2001 (Statutes of 2001, Chapter 790; Assembly Bill 1281), specifically the addition of Government Code section 3507.1(c). MMBA section 3507.1(c) requires the granting of recognition to a petitioning employee organization in an appropriate unit where the petitioner demonstrates proof of majority support and there is no other petitioning organization with at least 30 percent support.

Section 61420 concerns the investigation of severance petitions under the MMBA. This change is necessary to conform the regulation section to changes enacted to MMBA in 2001 (Statutes of 2001, Chapter 790; Assembly Bill 1281), specifically the addition of Government Code section 3507.1(c). MMBA section 3507.1(c) requires the granting of recognition to a petitioning employee organization in an appropriate unit where the petitioner demonstrates proof of majority support and there is no other petitioning organization with at least 30 percent support.

Section 61480 addresses the investigation of unit modification petitions under the MMBA. This change is necessary to conform the regulation section to changes enacted to MMBA in 2001 (Statutes of 2001, Chapter 790; Assembly Bill 1281), specifically the addition of Government Code section 3507.1(c). MMBA section 3507.1(c) requires the granting of recognition to a petitioning employee organization in an appropriate unit where the petitioner demonstrates proof of majority support and there is no other petitioning organization with at least 30 percent support.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: Insignificant savings resulting from reduction in documents required to be filed.

Costs or savings to state agencies: Insignificant savings resulting from reduction in documents required to be filed.

Cost or savings on federal funding to the state: None

Cost impact on representative private persons or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in

other states: Initial determination of the agency is that the proposed action will have no impact.

Significant effect on housing costs: The agency's initial determination is that there is no effect on housing costs.

The proposed regulations will not affect small business because they only affect public employers and public employees.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by it, or otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons may be obtained by contacting Bernard McMonigle at the address or phone number listed below.

ADOPTION OF PROPOSED REGULATIONS, AVAILABILITY OF CHANGED OR MODIFIED TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly indicated—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Bernard McMonigle

at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at www.perb.ca.gov, throughout the rulemaking process. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed, will be posted on the web site following the Board's action.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Bernard McMonigle, Senior Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814
(916) 327-8386

or

Les Chisholm, Regional Director
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814
(916) 327-8383

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION: AMEND COMMISSION REGULATIONS 1004, 1005, AND COMMISSION PROCEDURE D-13

FIELD TRAINING PROGRAM

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST), pursuant to the authority vested by Sections 13503 of the Penal Code (powers of the Commission on POST) and Section 13506 (authority for Commission on POST to adopt regulations), and in order to interpret, implement and make specific Sections 13510 (authority for the Commission on POST to adopt and amend rules establishing minimum standards for California local law enforcement officers) and 13510.5 of the Penal Code (authority for the Commission on POST to adopt and amend standards for certain other designated California peace officers), proposes to adopt, amend or repeal regulations in Chapter 2 of Title 11 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission, at their April 23, 2003 meeting, approved staff's proposal to amend the implementation date of the above referenced Commission Regulations and Procedure from July 1, 2003 to July 1, 2004.

These amended regulations and procedure were the result of numerous meetings with a group of Subject Matter Experts (SMEs), hereafter referred to as the POST Field Training Advisory Council. The original implementation date of July 1, 2003 was selected based on the ability of the Council to meet as frequently as they had previously met and the ability to contract with an instructional designer for assistance in redesigning the collaborative courses. Due to budgetary and personnel constraints, that Council has not met since the regulation changes were approved by the Commission, nor has POST been able to contract with any instructional designers.

The original changes were meant to encourage and allow agencies time to review their current field training programs, study the changing trends of field training, and then, if desired, modify their programs to include the options offered by POST's new, broadened regulations. The changes were also meant to provide for more interactive and enhanced curriculum within the field training courses to increase a Field Training Officer's (FTO's) and Field Training Supervisor/Administrator/Coordinator's (SAC's) ability to create, train in, and operate the best, agency-specific field training program they can.

The budgetary and personnel constraints of the last fiscal year and the pending constraints of the upcoming fiscal year(s), will not allow POST to adequately prepare to meet the needs of our agencies prior to the original implementation date of July 1, 2003.

Much of the work involved in redesigning the POST model Field Training Program Guide and the curriculum content for the field training courses has been and will continue to be done by POST staff. It will then be presented to the Council, as well as other SMEs, for review and revision at fewer, shorter meetings.

POST and the Field Training Advisory Council recognize that many agencies already have field training programs that meet or exceed the revised training standards, but that many others may need/want more time to review the revisions and implement them in an appropriate agency-specific field training program. Additionally, both POST and the Field Training Advisory Council, want to ensure that the revised curriculums of the field training courses are well designed and specific to the needs of each of the related field training assignments.

This action calls for an extension for implementing the revised field training requirements to July 1, 2004 and minor language modifications. This will allow POST and client agencies more time to better prepare high quality programs and courses. All current field training personnel prior to the implementation date will be 'grandfathered' into the regulations. Agencies would then have until July 1, 2005 to train those assigned to a Field Training SAC position and July 1, 2007 to meet the FTO update training requirement.

PUBLIC COMMENT

The Commission hereby requests written comments on the proposed actions. All written comments must be received at POST no later than 5:00 p.m. on August 4, 2003. Written comments should be directed to Kenneth J. O'Brien, Executive Director, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, fax number (916) 227-2801, or email at ken.obrien@post.ca.gov

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8 any interested person, or his or her duly authorized representative, may request in writing, no later than 15 days prior to the close of the public comment period, that a public hearing be held.

ADOPTION OF PROPOSED REGULATIONS

Following the close of the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period, and all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date of which the revised text is made available.

TEXT OF PROPOSAL

Copies of the Initial Statement of Reasons and exact language of the proposed action may be obtained by submitting a request in writing to the contact person at the address below. This address also is the location of all information considered as the basis for these proposals. The information will be maintained for inspection during the Commissions' normal business hours (8 a.m. to 5 p.m., Monday through Friday).

Copies of the Final Statement of Reasons, once it has been prepared pursuant to subdivision (a) of Section 11346.9, may be obtained from the address at the end of this notice.

ESTIMATE OF ECONOMIC IMPACT

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states, and has found that the proposed amendment of Regulations 1004, 1005, and Commission Procedure D-13, will have no effect on California businesses, including small businesses, because the Commission on Peace Officer Standards and Training sets selection and training standards for law enforcement and does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

CONSIDERATION OF ALTERNATIVES

In order to take this action, the Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries concerning written material pertaining to the proposed action should be directed Leah Cherry, Associate Governmental Program Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, or by telephone at (916) 227-3891, fax number (916) 227-3895 or e-mail at leah.cherry@post.ca.gov. The back-up contact person as well as inquiries concerning the substance of the proposed action/text for the proposed changes should be directed to Kate Singer, Senior Consultant, at (916) 227-3935, fax number (916) 227-6932 or e-mail at kate.singer@post.ca.gov

INTERNET ACCESS

Select Regulations, then Notices of Proposed Regulation Changes to view proposed regulatory actions on POST's home page (www.post.ca.gov).

TITLE 13. CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 7.5, SECTION 1239

COMMERCIAL VEHICLE SAFETY ALLIANCE NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA (CHP-R-03-06)

The California Highway Patrol (CHP) proposes to adopt by reference the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2003, in Title 13, California Code of Regulations (13 CCR). The current regulation adopts by reference the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 34501(a)(1) of the California Vehicle Code (VC) authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 VC. The rules and regulations are regarding, but not limited to, controlled substances and alcohol testing of drivers by motor carriers, drivers hours-of-service qualifications, equipment, fuel containers, fuel operations, inspection, maintenance, record keeping, accident reports and drawbridges. Section 2402 VC provides the Commissioner with the authority to "make and enforce such rules and regulations as may be necessary to carry out

the duties of the Department" and Section 2410 VC provides the authority for the CHP to place vehicles out of service (Attorney General's Opinion NS 2520) in order to "ensure safety." Current regulations, adopting by reference the Commercial Vehicle Safety Alliance North America Standard Out-of-Service Criteria, April 1, 2002 Edition, extends applicability to those vehicles listed in Sections 260, 322, 15210 and 34500.

The intent of these regulations is to adopt specific uniform criteria for determining whether or not a vehicle and/or driver, inspected by a member of the CHP, is in such an unsafe condition that they are likely to constitute a hazard on a highway. These regulations will incorporate by reference specified portions of the standards contained within the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2003 Edition. Renewal of this criteria will continue to provide consistency throughout California, with neighboring states, Canada and Mexico, and provide a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria.

PUBLIC COMMENTS

Any interested person may submit written comments on this proposed action via facsimile at (916) 446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

CHP, Enforcement Services Division
Commercial Vehicle Section
ATTN: Officer Kevin Gibbons
P. O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, August 4, 2003.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, Commercial Vehicle Section, at (916) 445-1865. All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper

mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 444 North Third Street, Suite 310, Sacramento, California. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or questions regarding the substance of the proposed regulations should be directed to Officer Kevin Gibbons or Sergeant Jim Pang, CHP, Commercial Vehicle Section, at (916) 445-1865.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The California Highway Patrol is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The California Highway Patrol has determined that the proposed regulatory action may affect small businesses.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Sections 2402, 2410, 31401 and 34501(a) VC.

REFERENCE

This action implements, interprets, or makes specific Sections 260, 322, 2402, 2410, 12500, 12502, 12515(b), 14603, 15210, 15250, 15275, 15278, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506 and 34510 VC.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 158.00 in Chapter 1, Division 1, Article 3 of Title 13, California Code of Regulations to implement Ch. 640, Stats of 2002, Zero Emission Vehicle Parking Decal.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., August 4, 2003, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Section 1651 of the Vehicle Code in order to implement, interpret or make specific Sections 22511 and 22511.1 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Sections 22511 and 22511.1 allow owners of zero emission vehicles to apply for a parking decal to park in designated spaces for the purposes of parking and recharging their zero emission vehicles. The proposed regulation will provide instructions for completing the application and specify the cost of the decal that is to be placed on the vehicle in order to park and refuel in designated spaces specifically designated for zero emission vehicles.

DOCUMENTS INCORPORATED BY REFERENCE

“Zero Emission Vehicle (ZEV) Parking Decal Application” (NEW 3/2003). The form is being incorporated by reference since it is impractical and cumbersome to publish in the California Code of Regulations a form that will only be used for a specified purpose. It is anticipated that the information currently being provided by the customers will remain the same.

FISCAL IMPACT STATEMENT

Cost or Savings To Any State Agency: None.

Other Non-Discretionary Cost or Savings to Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons or Businesses: There is a charge of \$17.00 for each zero emission vehicle parking decal.

Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. A zero emission vehicle parking decal will authorize a driver to park in designated spaces for the purposes of parking and refueling a zero emission vehicle. The issuance of a zero emission vehicle parking decal is voluntary and the cost of a decal is \$17.00. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. The proposed regulation will identify the form necessary to apply for a zero emission parking decal and specify the fee. The issuance of a zero emission vehicle parking decal is voluntary and the cost of a decal is \$17.00.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah

Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov. Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Interim Watershed Mitigation Addendum—2003

The Board of Forestry and Fire Protection (Board) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

§§ 895 Abbreviations Applicable throughout the Chapter

§§ 895.1 Definitions Applicable throughout the Chapter

§§ 916.13(936.13, 956.13) Interim Watershed Mitigation Amendment (IWMA)

§§ 916.13.1(936.13.1, 956.13.1) Consultation

§§ 916.13.2(936.13.2, 956.13.2) IWMA Evaluation

§§ 916.13.3(936.13.3, 956.13.3) Contents of IWMA

§§ 916.13.4(936.13.4, 956.13.4) Standards for IWMA Preparation

§§ 916.13.5(936.13.5, 956.13.5) Submission of an IWMA as Part of a Plan

§§ 916.13.6(936.13.6, 956.13.6) Compliance Monitoring and Expanded Completion Report

§§ 916.13.7(936.13.7, 956.13.7) Subsequent Plans within the IWMA Area

§§ 916.13.8(936.13.8, 956.13.8) Equivalent Analysis

PUBLIC HEARING

The Board will hold a public hearing starting at 10:30 A.M., on Wednesday, August 6, 2003, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, August 4, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review. All written comments shall be submitted to the following address:

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:
(916) 653-0989

Written comments may also be delivered via e-mail at the following address:
board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) §§ 4551, 4551.5 and 4553 authorizes the Board to adopt such rules and regulations as it determines are reasonable necessary to enable it to implement, interpret, or make specific §§ 4582, 4582.5 and 4593.3 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) establishes the Legislature's concern throughout the state relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In previous rule making actions the Board adopted rules, which set forth, regulations for the protection of impaired water quality designated as having impaired water quality values. The Board defined the Impairment. These regulations were intended to move from a project by project analysis of impacts and mitigation

development to a watershed level approach. These regulations are currently being proposed to be extended and terminate on December 31, 2002. The Board has developed pilot rules to continue towards the provision of watershed level analysis. These rules are to apply statewide. They are a test of watershed level analysis targeted at the maintenance and restoration of anadromous salmonids.

Several species of anadromous salmonids (Chinook salmon, steelhead and coho salmon) have been listed throughout their range in California under either the Federal or California Endangered Species Act since December 1995. Since the listings, the Board of Forestry (BOF) has adopted several rule packages that provide generic protective measures for anadromous salmonids across their entire range.

The BOF recognizes that it is beneficial for both anadromous salmonids and timberland owners to focus on site-specific factors that affect freshwater habitat for anadromous salmonids. Furthermore, the BOF recognizes that it may be desirable to address these factors in a broader context than individual harvest plans.

- The IWMA rule package provides a regulatory process that allows the Department, other responsible agencies, and timberland owners to identify site-specific conditions that are impacting anadromous salmonids within the broader context of a logical hydrologic unit.
- The IWMA rule package promotes consultation between the responsible agencies, and the timberland owner to address specific limiting factors for anadromous salmonids within the evaluation area prior to the development and review of individual harvest plan proposals.
- The IWMA rule package provides timberland owners with an option to the existing generic forest practice rules that focuses harvest plan and mitigation design on site-specific factors limiting anadromous salmonids within the evaluation area.
- The IWMA rule package provides an opportunity for the Department, other responsible agencies, and timberland owners to conduct a pilot test on the feasibility of voluntary approach to watershed evaluation.

14 CCR § 895

An abbreviation is added to this section for the Interim Watershed Mitigation Addendum (IWMA). The Board proposes to extend the effective period of this abbreviation to December 31, 2006.

14 CCR § 895.1

A definition is added to this section for "limiting factors for Anadromous Salmonids". The Board

proposes to extend the effective period of this definition to December 31, 2006.

14 CCR §§ 916.13 (936.13, 956.13)

The IWMA is provided as an alternative to compliance with the rules adopted for the protection of watersheds with impaired water quality. The purpose of the IWMA is described as focusing on watershed evaluation and the development of site-specific mitigation for limiting factors for anadromous salmonids. It is made clear that practices proposed in the IWMA must provide for the protection of anadromous salmonids. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.1 (936.13.1, 956.13.1)

The IWMA submitter shall conduct a pre-consultation with the reviewing agencies for the watershed that is to be evaluated. This includes responsible local, state, and federal agencies. Where the submitter selects this option the results must be provided to the Director of the Department of Forestry and Fire Protection (Director) at the time the Timber Harvesting Plan (THP) is submitted. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.2 (916.13.2, 956.13.2)

The IWMA is to provide the required information for an established evaluation area which is defined as a logical hydrologic unit. The general area is to be a logical hydrologic unit. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.3 (936.13.3, 956.13.3)

The contents of the IWMA are described. The IWMA is to pay primary attention to the area owned or controlled by the landowner. The contents include the area to be evaluated; limiting factors on anadromous salmonids, mitigation measures to be applied, and an evaluation of the implementation and initial effectiveness of those measures based on monitoring information. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.4 (936.13.4, 956.13.4)

The standards for the preparation of the IWMA are set forth. The standards include the basis of information, support for proposed mitigation, and the use of information in future IWMA's. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.5 (936.13.5, 956.13.5)

The guidance for the submission of an IWMA is established in this section. IWMA's are to be submitted as part of a THP. They are to be provided in standard

digital format. They are to define what portions of the interim watershed rules they are to replace. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.6 (936.13.6, 956.13.6)

The submission of an expanded completion report, which includes results of effectiveness monitoring, is set forth. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.7 (916.13.7, 956.13.7)

The use of the IWMA in future THP's is described. An IWMA may be used with future THP's once the original THP has been approved. The Board proposes to extend the effective period of these rules to December 31, 2006.

14 CCR §§ 916.13.8 (936.13.8, 956.13.8)

There are two instances where another document may be considered as a replacement for the IWMA. That is a long-term plan recognized by the Board in regulation and an approved Habitat Conservation Plan. The Board proposes to extend the effective period of these rules to December 31, 2006.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- Significant statewide economic impact on business, including the ability of California businesses to compete with businesses in other states: The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: Assessment cost will depend on the scope of analysis, complexity, and intensity of review, watershed scale, data availability, and many other variables. It will also have to consider what the costs would have been to prepare the watershed assessment portion of the existing Cumulative Effects Analysis (Board rule addendum No. 2).

The cost of implementing mitigation is also difficult to assess. It is possible that a watershed evaluation could define operational practices, which would result in cost savings over prescriptive practices required under existing rules. It may also result in requiring operational practices with a greater cost than that required under existing rules. Since the mitigations set forth under these rules are site specific it is almost impossible to guess what those mitigations would be or their actual cost. Regardless of these difficulties the Board contacted landowners and found the following.

The Interim Watershed Mitigation Addendum (IWMA) rule package proposal is a focused limiting factor mitigation addendum designed to address protective measures for listed anadromous salmonids in association with forestry operations. While the proposed process extends the evaluation area beyond what is required for a timber harvest plan (THP) under the current Forest Practice Rules (FPRs), it is not a watershed assessment.

In preparing the following economic analysis, the Board of Forestry staff contacted several industrial landowners to ascertain the potential costs and benefits associated with the IWMA proposal. The IWMA rule package proposal does not create any additional mandatory FPRs. It provides a timberland owner with an optional approach that focuses on site-specific conditions and mitigation measures. Since the IWMA process is not mandatory it is anticipated that landowners will initially assess whether there are economic or management benefits associated with an IWMA analysis before initiating the process and engaging the agencies in consultation.

Preliminary economic analysis indicates that a landowner choosing to undertake an IWMA analysis will likely incur additional costs over the current THP process. This includes the development of the currently required THP Cumulative Effects Addendum. The IWMA process covers a larger geographical area than the normal timber harvest plan. The landowner will initially have to gather and analyze more data and information. The IWMA process may require more on-the-ground analysis than what is required under the current Forest Practice Rules and the timber harvest planning and approval process. Furthermore, a landowner incurs more risk up front. The IWMA analysis is not a permit and does not provide a submitter any rights. It is not reviewed and approved by the Department independently but is submitted as an addendum to a proposed THP. Additional factors that will affect the costs associated with an IWMA analysis include size of the evaluation area, percent of the evaluation area

owned by the party submitting the IWMA, amount of existing data, how much additional data is required by the consulting agencies, access to information from adjacent landowners, and amount and proximity of watercourses within the evaluation area.

Costs may be offset by the benefits derived from up-front consultation with the responsible agencies before initiation of the THP process. The landowner may also derive some relief from the existing *Protections for Threatened and Impaired Watersheds, 2001* rules by proposing more efficient mitigation measures for anadromous salmonids within the evaluation area. IWMA analyses that cover large areas may provide the landowner a benefit in terms of economy of scale. The landowner may be able to incorporate the IWMA analysis in more than one timber harvest project allowing the landowner to amortize costs over several projects. Finally, the information gathered during the IWMA process may be beneficial to the landowner during the THP review and approval process.

Based on the information provided by the landowners, estimated costs to complete an IWMA analysis range from \$1.75 per acre to \$11.50 per acre. Key factors include how much information and analysis is required by the consulting agencies, size of the evaluation area and economy of scale, and whether you could amortize costs over more than one THP within the evaluation area.

- Significant effect on housing costs: None
- Assessment Statement: The regulatory proposal will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: The Board of Forestry has determined that the proposed rules may have an effect on small businesses. However as shown in the discussion on cost impacts on representative private persons or businesses, it is difficult to determine what that impact would be. Further since compliance with the rule is voluntary there could be no impact if no one utilizes these rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulatory proposal does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418 or,
(916) 653-8007

The designated backup person in the event Mr. Mote is not available is George Gentry, Acting Executive Officer of the Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared it will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/
board_proposed_rule_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in

this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text-with the changes clearly indicated-available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING Watershed Protection Extension, 2003

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

§ 895.1	Definitions
§ 898(a)	Feasibility Alternatives
§§ 914.8 [934.8, 954.8](g)	Tractor Road Watercourse Crossing
§§ 916 [936, 956](e)	Intent of Watercourse and Lake Protection
§§ 916.2 [936.2, 956.2](d)	Protection of the beneficial Uses of Water and Riparian Functions
§§ 916.9 [936.9, 956.9](y)	Protection and Restoration in Watersheds with Threatened or Impaired Values
§§ 916.11 [936.11, 956.11](b)	Effectiveness and Implementation Monitoring
§§ 916.12 [936.12, 956.12](f)	Section 303(d) Listed Watersheds
§§ 923.3 [943.3, 963.3](h)	Watercourse Crossings

§§ 923.9 [943.9, 963.9](g) Roads and Landings
in Watersheds with
Threatened or Im-
paired Values

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 A.M., on Wednesday, August 6, 2003, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Comments need to identify the rule of concern by title shown at the top of the Notice of Publication to assure your comments are included in the correct rule file.

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, August 4, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:
(916) 653-0989

Written comments may also be delivered via e-mail at the following address:
board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 authorizes the Board to adopt such Rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562.5, 4562.7, 4562.9, 4582, and 4584 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) established the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In 1996, the State Fish and Game Commission listed Coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA). Then in 1997, the National Marine Fisheries Service (NMFS) listed Coho salmon as threatened throughout its range in California under the Federal ESA. Steelhead trout was listed by NMFS as a threatened species in the Northern California ESU on June 7, 2000. In April 2001 the State Fish and Game Commission accepted a petition to list Coho salmon as endangered north of San Francisco Bay. In May of 2001 the Fish and Game Commission adopted an emergency regulation which established the Coho salmon as a threatened species. The Commission also adopted these proposed regulations of the Board as the minimum protection to be provided to the species for the effects of timber harvesting.

Among many other sources of information considered by the Board in preparing the proposal for rule changes, a comprehensive review of the California

Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species, has been prepared for the Board (*Report of the Scientific Review Panel* [SRP report], 1999). Following an extensive review of the regulations, “The SRP concluded the FPRs, including their implementation (the ‘THP process’) does not ensure protection of anadromous salmonid populations” (*Report of the Scientific Review Panel*, 1999). Although this report was specific to the North Coast region, the Board believes that many of the recommendations made in the report could be effectively applied throughout the State to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

The Board of Forestry and Fire Protection recognized the substantial concerns raised by other agencies additionally charged with the protection of the State’s valuable watershed resources. The Board is also extremely aware of the need to protect listed species that may be impacted by practices that are regulated under the Board’s purview, regardless of their location within the State. Furthermore, the Board recognized the potential for economic impacts to timberland owners and others that could be imposed from certain types of restrictions or requirements. Considering these factors, the Board adopted changes to the Forest Practice Rules under a previous rulemaking package (*Protection for Threatened and Impaired Watersheds*, 2000).

It should be noted that pursuant to PRC §§ 4512, 4513, 4551, 4551.5, 4552, and 4553; the Board is moving forward with action to further analyze the effectiveness of the rules to protect listed species and the beneficial uses of water. In order to clarify the Board’s intent to address the protection of listed aquatic species and watercourses listed as impaired (pursuant to section 303(d) of the Clean Water Act) on a watershed basis, the Board chose to establish a specific period of time that the rule changes adopted July 1, 2000, would be effective. By imposing a limit on the effective period of the rule changes, the Board would be allowed to work with landowners, scientists and other parties during the balance of the year 2000 to investigate whether an alternative regulatory approach could be developed. The Board established a group (Ad Hoc Watershed Committee) to research whether an alternative approach can be developed that would use enhanced scientific analysis and the principals of watershed analysis to determine, among other things, the potential cumulative environmental impacts of proposed timber harvesting operations and associated activities. The Board hopes that an accumulation of knowledge applicable to specific watersheds and basins will be brought together by the various agencies and the public.

This knowledge could then be used to tailor site-specific forest practices to avoid any significant environmental impacts from individual timber harvesting plans, or cumulative impacts from various activities in a watershed that could combine with the effects of timber harvesting. The Board recognized that any alternative approach would not be fully implemented prior to December 31, 2000 and extended the rule for one year in a previous rulemaking package (*Protection for Threatened and Impaired Watersheds*, 2001). The Board extended that rule package for an additional year with changes that resulted from field testing the rule package for the previous one and one half years (*Protection for Threatened and Impaired Watersheds*, 2002).

The Board has continued to gather additional information on improving the means of regulating timber operations at the watershed level. This included an April, 2001 watershed workshop at Blodgett Experimental Forest. The Board has also received several presentations on the effects of timber harvesting on various watersheds, including Deer Creek in Shasta Co. and Redwood Creek in Humboldt County. The Board has also considered public testimony on the problems with implementation of the 2000 rules. Some modifications were made to those rules in 2001 and changes are effective in 2002.

An alternative to these rules was proposed in 2001 to provide performance based rather than prescriptive rule but it was denied by OAL as it needed more work. That package was revised in 2002 as the performance based package (Interim Watershed Mitigation Addendum—2002) to test against the 2002 rules. The Interim Watershed Mitigation Addendum—2002 is being proposed for extension for three years as it will take that long to utilize and evaluate those performance based rules. The extension of the *Protection for Threatened and Impaired Watersheds*, 2002 for three more years will provide the Board adequate time to evaluate and implement alternatives to those rules that became effective July 1, 2000. The Board *Ad Hoc* Watershed Committee is continuing to accumulate knowledge from the evaluation and research efforts of other agencies and institutions.

The *Ad Hoc* Watershed Committee will continue the accumulation of knowledge during the upcoming years. The Committee will continue refining application of the best science available to select the appropriate tools to address watershed evaluation or assessment. This is consistent with the Board mandate under Section 4553 of the Public Resources Code. If further work is still necessary, any identified improvements that can be made will be proposed in the upcoming year. The complexity of this regulatory effort is not only in the science of watershed evaluation and assessment but in the “art” of

translating that science into regulatory language. Regardless, the Board is continuing to put forward regulations for the protection of salmonid species and the beneficial uses of water which are based on the best science and protective practices available.

14 CCR § 895.1

Definitions

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (1). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR § 898(a)

Feasibility Alternatives

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (a). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 914.8 [934.8, 954.8](g)

Tractor Road Watercourse Crossing

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (g). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 916 [936, 956](e)

Intent of Watercourse and Lake Protection

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a

watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (e). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 916.2 [936.2, 956.2](d)

Protection of the Beneficial Uses of Water and Riparian Functions

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (d). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 916.9 [936.9, 956.9](y)

Protection and Restoration in Watersheds with Threatened or Impaired Values

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (y). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 916.11 [936.11, 956.11](b)

Effectiveness and Implementation Monitoring

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (b). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 916.12 [936.12, 956.12](f)
Section 303(d) Listed Watersheds

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (f). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 923.3 [943.3, 963.3](h)
Watercourse Crossings

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (h). The Board proposes to extend the effective period of the changes to December 31, 2006.

14 CCR §§ 923.9 [943.9, 963.9](g)
Roads and Landings in Watersheds with Threatened or Impaired Values

In order to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis, while also considering those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act; the Board proposes to extend the specific period of time that the rule changes that became effective July 1, 2000, would be effective. This change is presented under subsection (g). The Board proposes to extend the effective period of the changes to December 31, 2006.

SPECIFIC PURPOSE OF THE REGULATION

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) established the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and

fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

Although the SRP report was specific to the North Coast region, the Board believes that many of the recommendations made in the report could be effectively applied throughout the State to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- Significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: The rule proposal will affect businesses and small business related to the timber industry by extending the effective period of rule changes that increase the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, additional cost of professional consultations, and costs associated with a reduction in long term sustained yield (LTSY). There may also be additional cost associated with additional inspections.

Although the Board staff has identified the potential for increased costs associated with the previous changes to the Rules, which would be extended under this rule proposal, the Board staff also identified the potential for increased benefits to other sectors of business in the State. Some of the

benefits derived from the change in the Rules could be contributed to both market and non-market values related to increases in anadromous fish populations, reduction in the costs of flood control, and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing. The Board has made an initial determination that there will be no significant statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states.

(Note: cost and benefit estimates for the individual Rules, which will be effectively extended for a period of three (3) years, are presented in the *Initial Statement of Reasons*.)

- Potential cost impacts on representative private persons or businesses: As indicated above, the rule proposal will affect businesses, and large and small landowners with an interest in the timber products industry by extending the effective date of rule changes that increase the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, additional cost of professional consultations, and costs associated with a reduction in long term sustained yield (LTSY).

The Board staff anticipates that offsetting benefits will be derived from increases in recreation and commercial fishing, as well as reductions in the costs of flood control in some areas.

(Note: cost and benefit estimates for the individual Rules are similar to those referenced above and are presented in the *Initial Statement of Reasons*.)

- Significant effect on housing costs: None
- Adoption of these regulations may create or eliminate jobs within California. It is estimated that the reduction in long-term sustained yield resulting from the reduction in timber available for harvest could result in the loss of some 4,800 jobs over the long term. However, the increase in fish populations and enhanced recreational values that could result from the increased protection measures over the long term could result in the creation of jobs in the fishing industry and related industries over the long-term, offsetting the loss of jobs in other sectors of the economy.

- Adoption of the extension of these regulations will not create new nor eliminate existing businesses within California. The rule only extends the date of the previously approved rule change.
- Adoption of the extension of these regulations may cause the expansion of businesses currently doing business in the state of California. Increased fish populations and recreation values, which may result from adoption of this rule extension, could expand the businesses in the fishing, recreation, and related industries.

EFFECT ON SMALL BUSINESSES:

The rule proposal will affect small business related to the timber industry by extending the effective period of rule changes that increase the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, additional cost of professional consultations, and costs associated with a reduction in long term sustained yield (LTSY). There may also be additional cost associated with additional inspections.

Although the Board staff has identified the potential for increased costs associated with the previous changes to the Rules, which would be extended under this rule proposal, the Board staff also identified the potential for increased benefits to other small business sectors in the State. Some of the benefits derived from the change in the Rules could be contributed to both market and non-market values related to increases in anadromous fish populations, reduction in the costs of flood control, and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing. The Board has made an initial determination that there will be no significant statewide adverse economic impact directly effecting small business, including the ability of California small businesses to compete with businesses in other states.

(Note: cost and benefit estimates for the individual Rules are presented in the *Initial Statement of Reasons*.)

The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board has determined that the proposed regulations may impact businesses. However, the Board has not identified any equally effective alternatives that would lessen any adverse impact on businesses at this time. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing, or during the written comment period. Submissions may include the following considerations: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses, (ii) Consolidation or simplification of compliance and reporting requirements for businesses, (iii) The use of performance standards rather than prescriptive standards, or (iv) Exemption or partial exemption from regulatory requirements for businesses.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418 or,
(916) 653-8007

The designated backup person in the event Mr. Mote is not available is George Gentry, Acting Executive Officer of the Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and

~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text with the changes clearly indicated available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by 200, 202, 203 and 355 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 208, 215, 220, 355 and 356 of said Code, proposes to amend subsection (a) of Section 300, Title 14, California Code of Regulations, relating to resident upland game birds.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations [section 300(a)(1)(D)(4)] allow 100 two-bird permits for the East Lassen Zone,

40 two-bird permits for the Central Lassen Zone, 25 one-bird permits for the North Mono Zone, and 25 one-bird permits for the South Mono and Inyo Zone. Under the current regulatory cycle, the first Fish and Game Commission notice hearing date for sage grouse regulation changes occurs in May. However, the final sage grouse population survey results are not available until after the date that the Department must submit proposed regulation changes to the Commission. The Department proposes a range of maximum and minimum hunting permit numbers to the Commission, with the provision that the actual number of permits recommended for each hunt will be based on April strutting ground and June brood count surveys.

The proposed ranges are 10 to 375 permits for the East Lassen Zone, 10 to 175 permits for the Central Lassen Zone, 10 to 100 permits for the North Mono Zone, and 10 to 100 permits for the South Mono and Inyo Zone.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California on Friday, June 20, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Westin, Long Beach, 333 E. Ocean Blvd., Long Beach, California on Saturday, August 2, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 2, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 2, 2003, at the hearing in Oakland, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. John Carlson, Jr., Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address

above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein. If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The nature of these regulatory changes is directed at wise stewardship and would have no significant adverse effect on businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 15. YOUTHFUL OFFENDER PAROLE BOARD

PUBLIC NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Youthful Offender Parole Board ("Board" or "YOPB") proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend § 4941 of Title 15, California Code of Regulations (CCR).

PUBLIC HEARING

The Board will hold a public hearing from 9:00 a.m.–12:00 noon on August 4, 2003, at the Youthful Offender Parole Board, 3336 Bradshaw Road, Suite # 255, Sacramento, California. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons who make oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his/her duly authorized representative, may submit comments relevant to the proposed regulatory action to the Board. The written

comment period closes at 3:00 p.m. on August 4, 2003. All comments must be received by that time. Submit comments to:

Primary contact person:

Person to ask substance questions:

Connie Erlich

Youthful Offender Parole Board

3336 Bradshaw Road, Suite 255

Sacramento, CA 95827-2615

Telephone: (916) 255-4495

Alternate contact person:

Shelly Jones

Youthful Offender Parole Board

3336 Bradshaw Road, Suite 255

Sacramento, CA 95827-2615

Telephone: (916) 255-4495

AUTHORITY AND REFERENCE

Welfare and Institutions Code (WIC) § 1721 authorizes the Board to adopt the proposed regulations which would implement, interpret or make specific numerous sections of the Welfare and Institutions Code, including §§ 1176 through 1766.

INFORMATIVE DIGEST

WIC § 1719 defines the powers and duties of the Board, and § 1721 authorizes the Board to implement regulations carrying out those responsibilities. Proposed regulatory revisions:

- (1) eliminate initial appearance hearings, providing alternate procedures for setting wards' category and initial PCD, specifying the Board will not make treatment and training recommendations at the initial review.

POLICY STATEMENT OVERVIEW

The proposed actions amend existing regulations to enhance quality management and effectiveness while:

- clarifying and making specific the Board's procedures while adhering to the Administration's philosophy and statutory mandates to ensure public safety;
- striving toward the Administration's goal to develop processes that entail less governmental bureaucracy;
- streamlining and simplifying the process;
- re-engineering procedures for process improvement;
- addressing previous downsizing mandates by reducing the number of hearings while maintaining due process, quality, effectiveness, and accountability, and;
- reducing the error rate created by the complexity of the current system.

Additionally, changes were made for improved clarity, including ensuring greater accuracy in authority and references sections.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Unnecessary Conflict or Duplication of Federal Regulations or Statutes

No federal regulations or statutes apply to this area of regulation.

Other Matters Statutorily Prescribed

The Board must submit proposed regulations to the Board of Corrections for information purposes or review and advice (Penal Code § 6025.5).

This is the only other matter prescribed, pursuant to 11346.1(b) or 11346.5(a)(4) of the Government Code, pertaining to the proposed regulations of the Board.

Mandates to Local Agencies or School Districts

The proposed regulations do not impose mandates upon local agencies or school districts (Government Code § 11346.5(a)(5)).

Costs or Savings to State Agencies or in Federal Funding to the State, and Costs to Local Agencies and School Districts

The proposed regulations result in no increased costs or savings to any State agencies; involve no cost to any local agency or school district; involve no other non-discretionary costs or savings to local agencies; and will not involve any costs or savings in federal funding to the State (Government Code § 11346.5(a)(6)).

Initial Determination of Effect on Housing Costs

Proposed regulations have no effect upon housing costs (Government Code § 11346.5(a)(12)).

Declaration of Initial Determination Regarding Economic Impact on Business

The Board declares adoption of the proposed regulation will not have a significant, statewide, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, because California businesses are not required to comply with any of the proposed regulations. Regulations passed by the Board govern only the functions of the Board in carrying out its responsibilities (Government Code § 11346.5(a)(8)).

Results of Assessment Required by 11346.3(b) of Government Code

Proposed regulations will not create nor eliminate jobs within California; will not create new businesses nor eliminate existing businesses within California, and; will not affect the expansion of businesses currently doing business within California. (Government Code § 11346.5(a)(10)).

Finding Prescribed by 11346.3(c) of Government Code

Proposed regulations make no reporting requirements upon businesses (Government Code § 11346.5(a)(11)).

Costs Incurred by Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action (Government Code § 11346.5(a)(9)).

Determination of Effect on Small Business

The proposed regulations relate to the powers and duties of the Board and have no impact upon small businesses. Such powers and duties, set by statute, may not be contracted to private industry. Additionally, the proposed regulations require no small businesses to comply with, enforce, derive a benefit from, or incur a detriment from their enforcement (California Code of Regulations, Title 1 § 4).

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulatory action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

The Board invites interested persons to submit written statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rule making file available for inspection and copying throughout the rule making process at the above-listed address pursuant to Government Code § 11346.5(b). As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Connie Erlich or Shelly Jones at the address or telephone number listed above. The notice, initial statement of reasons and text may be viewed on the Board's web site at <http://www.yopb.ca.gov>.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

Following the public hearing, the Board may adopt the proposed regulation substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as advised pursuant to Government Code § 11346.8. Requests for copies of any modified regulations should be addressed to the above-listed contact person.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

After the close of the public comment period, a final statement of reasons will be prepared and made available to the public. Requests for copies of the final statement of reasons should be addressed to the above-listed contact persons. The final statement of reasons may also be viewed at <http://www.yopb.ca.gov>.

**TITLE 23. STATE WATER
RESOURCES CONTROL BOARD**

DIVISION 3. STATE WATER RESOURCES
CONTROL BOARD
CHAPTER 18. PETROLEUM UNDERGROUND
STORAGE TANK CLEANUP
FUND REGULATIONS

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (SWRCB) proposes to adopt, amend or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The SWRCB proposes to amend California Code of Regulations, title 23, division 3, chapter 18 (commencing with section 2803) relating to the Underground Storage Tank Cleanup Fund program (the Fund regulations). The Fund regulations implement the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, which is codified in chapter 6.75 of the California Health and Safety Code (commencing with section 25299.10).

PUBLIC HEARING

A public hearing has not been scheduled for this proposed action. However, as provided in Government Code section 11346.8, any interested person, or his or her duly authorized representative, may request a public hearing if the request is submitted in writing in the manner described below to the SWRCB no later than fifteen (15) days prior to the close of the written comment period. If a request for a public hearing is made, the SWRCB shall, to the extent practicable, provide notice of the time, date, and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the SWRCB. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

WRITTEN COMMENT PERIOD

The SWRCB requests comments from interested persons to present any statements, arguments or contentions relating to the proposed regulatory amendments. The comments must be submitted in writing and received by the SWRCB before the close of the written comment period in order to be considered by the SWRCB before it adopts, amends, or repeals the proposed regulations. The written comment period closes at 5:00 p.m., Pacific Standard Time, on August 4, 2003.

Comments may be hand-delivered, or submitted by U.S. mail, facsimile transmission, or electronic mail. Comments delivered by hand should be taken to 1001 I Street, Sacramento, CA., and addressed to the attention of Mr. Wes Wilkinson as shown below. Comments submitted by U.S. mail should be addressed as follows:

Wes Wilkinson, Regulations Coordinator
State Water Resources Control Board
Division of Financial Assistance
Underground Storage Tank Cleanup Fund
P.O. Box 944212
Sacramento, CA 94244-2120

Comments submitted by facsimile should be sent to the following facsimile phone number: (916) 341-5806. Comments submitted by electronic mail should be sent to the following e-mail address: wwilkinson@cwpswrcb.ca.gov

To be added to the mailing list for this rulemaking and to receive notification of updates to this rulemaking, please leave a voicemail message with Mr. Wes Wilkinson at (916) 341-5750 giving your name, address, and telephone number. If you would like to be notified electronically, please so indicate in the voicemail message and give your e-mail address in addition to the other information requested. Individuals who receive this notice by mail are already on the mailing list.

AUTHORITY AND REFERENCE

Health and Safety Code section 25299.77 authorizes the SWRCB to adopt, amend, or repeal the Fund regulations. The code sections that are being implemented, interpreted, or made specific through this proposed action are set forth in chapter 6.75 of the Health and Safety Code, commencing with section 25299.10. References to specific code sections are identified in the proposed amendments to the Fund regulations.

INFORMATIVE DIGEST
POLICY STATEMENT OVERVIEW

Pursuant to chapter 6.75 of the Health and Safety Code, the SWRCB administers the Underground Storage Tank Cleanup Fund (Fund). The SWRCB has

delegated administration of the Fund to the Division of Financial Assistance (Division). The primary purposes of the Fund, as established in chapter 6.75, are to serve as a mechanism for owners and operators of petroleum underground storage tanks (USTs) to meet federal financial responsibility requirements and to provide financial relief to owners and operators of USTs and residential tanks by reimbursing certain costs incurred as a result of an unauthorized release of petroleum from these tanks. The Fund also provides an incentive for owners and operators to comply with applicable UST laws by reimbursing only those persons who have complied with these laws.

Pursuant to Health and Safety Code section 25299.77, the SWRCB initially developed emergency regulations to implement chapter 6.75. The initial regulations took effect on December 2, 1991, and were subsequently amended on December 27, 1994, August 6, 1996, and November 27, 2000.

The specific objectives of the proposed amendments to the Fund regulations are to implement, interpret, and make specific certain provisions in chapter 6.75 of the Health and Safety Code, including certain legislative changes to that law that were made pursuant to chapter 154, statutes of 2001 (Nation)(Assembly Bill 1465). The regulatory amendments that are proposed to accomplish these objectives include the following:

Revised Definition of "Claim": Assembly Bill 1465 revised the definition of "claim" in Health and Safety Code section 25299.13. The proposed amendments reflect the revised statutory definition of "claim."

Revised Definition of "Underground Storage Tank": Assembly Bill 1465 revised the definition of "underground storage tank" in Health and Safety Code section 25299.24. The proposed amendments reflect the revised statutory definition of "underground storage tank."

Payment of Tank Storage Fees as a Prerequisite of Fund Eligibility: Assembly Bill 1465 amended the requirements a claimant must meet as a condition of eligibility to the Fund by requiring the claimant to demonstrate that required tank storage fees have been paid prior to submitting an application to the Fund. The proposed amendments reflect these changes to the Fund eligibility requirements.

In addition, the SWRCB has determined that it is necessary to amend the Fund regulations to clarify (1) the permit requirement (section 2811), (2) the documentation that must be submitted to substantiate that there has not been a violation of the double payment prohibition (section 2812.3), and (3) the manner of calculating the Fund's fair share of a claimant's costs of obtaining settlement proceeds or a judgment (subdivision (f) of section 2812.3). The amendments are also necessary to more clearly reflect the statutory

residential tank provisions set forth in subdivision (e) of section 25299.54, chapter 6.75, and to address a documentation issue concerning the date of any agreement entered into by a claimant where costs are to be incurred on behalf of the claimant or where the claimant assigns Fund reimbursement rights (sections 2811.2 and 2811.3).

Finally, the SWRCB has proposed certain changes to the Fund regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision; i.e., "changes without regulatory effect." These changes without regulatory effect include changes made for purposes of revising syntax, cross-references, grammar, or punctuation, or renumbering regulatory provisions. In many cases the SWRCB has explained these changes in the Initial Statement of Reasons to avoid any confusion with the substantive amendments being proposed. To the extent that any of the changes without regulatory effect are non-substantive, and their purpose is self-evident and merely editorial, they are not identified in this Notice.

CHANGES WITH REGULATORY EFFECT

The SWRCB proposes to adopt, amend, or repeal the Fund regulations as follows:

Chapter 18 (generally)

Assembly Bill 1465 amended the definition of "claim" to make clear that it refers to more than just a written reimbursement request. The revised statutory definition states that a claim is a submittal of documents to the Fund for reimbursement of eligible costs. These documents include the Fund application, reimbursement requests, and verification documents. The word "claim" was replaced with more accurate terminology in several parts of chapter 18 to ensure consistency with the revised statutory definition.

Article 2. Definition of Terms

Section 2804 defines terms used in chapter 6.75 and the Fund regulations that implement the chapter. As noted above, the proposed regulatory amendments replace the word "claim" with more accurate terminology in several parts of chapter 18 to ensure consistency with the revised statutory definition. The proposed amendments also amend "residence," "residential tank," and "underground storage tank" for clarity purposes and to ensure consistency with governing law.

Article 4. The Fund

Section 2811 prescribes permitting and other eligibility requirements. The proposed amendments make clarifying changes to the text to ensure consistency with governing law. The amendments also

reflect the new statutory requirement that petroleum storage fees be paid prior to submitting an application to the Fund.

Section 2811.2 prescribes Fund application requirements for claimants seeking reimbursement of corrective action costs. The proposed amendments add a documentation requirement for verifying the date of an agreement entered into by a claimant that provides that costs are to be incurred on behalf of the claimant or an agreement where the claimant assigns Fund reimbursement rights. The amendments specify the documentation required for that verification and require the claimant to provide a copy of the agreement.

Section 2811.3 prescribes Fund application requirements for claimants seeking reimbursement of third party compensation costs. The proposed amendments impose an additional Fund application requirement by incorporating by reference the new provisions of section 2811.2 that require a claimant to provide a copy of the agreement described therein and documentation to verify the date of the agreement.

Section 2812.3 contains the double payment prohibition that prohibits a claimant from receiving reimbursement from the Fund for specified costs that have been or will be reimbursed from another source. The double payment prohibition requires a claimant, who receives reimbursement from another source, to demonstrate through documentation submitted to the Fund that the monies reimbursed are not for Fund eligible costs. The proposed regulatory amendment gives an example of the type of documentation required and provides the Division with the discretion to request any other type of information or supporting documentation that it reasonably deems necessary.

The proposed amendments also revise subdivision (d), which addresses the potential double payment issue pertaining to corrective action, regulatory technical assistance, or third party compensation costs that are advanced to a claimant or are incurred on behalf of a claimant and for which the claimant later receives reimbursement from the Fund. The existing regulation specifies that such costs advanced shall not be considered a double payment if a written contract, other than an insurance contract, exists that specifies that the costs advanced must be paid over to the person who advanced the costs. The proposed amendments reorganize this sentence into an itemized list for clarification purposes, and also address an error in the existing regulation that inadvertently omitted how the Division would treat costs incurred on behalf of a claimant pursuant to a written contract.

Finally, subdivision (f) of this section, as currently written, specifies how the Fund may reimburse a claimant its fair share of costs incurred in obtaining a settlement or judgment for costs the Fund would otherwise have reimbursed. A computation for deter-

mining this fair share of costs due the claimant is described. The proposed regulatory amendment clarifies how the fair share is to be calculated by amending the description of the calculation and expressing that calculation mathematically.

Article 5. Request for Review, Appeal, and Petition Process

Section 2814.2 prescribes the substantive and procedural requirements for a claimant to petition the SWRCB to review a Final Division Decision. The existing regulation requires a claimant to state in the petition the date on which the Final Division Decision was received by the claimant. The November 27, 2000, regulatory amendments to the Fund regulations changed the date reference upon which a petition to the SWRCB would be considered timely filed—from thirty days from the date of receipt of the Final Division Decision to thirty days from the date of the Final Division Decision itself. As a result of these amendments, the existing regulation's requirement to identify the date of receipt is no longer applicable. Hence, the proposed amendment to section 2814.2 deletes this requirement.

FISCAL IMPACT ESTIMATES

Mandate on Local Agencies or School Districts:

The SWRCB has determined that the proposed amendments would not impose a mandate on local agencies or school districts. Additionally, the SWRCB has determined that the proposed amendments will not result in any additional costs or savings to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code.

Cost or Savings to any State Agency: The proposed regulatory amendment to revise the definition of "residence" may require the Fund to change the priority class assigned to certain owners of residential tanks from Priority Class B to Priority Class A. The level of financial responsibility required for these owners (i.e., the deductible amount owners are required to pay that is not covered by the Fund) would then change from \$5,000 to zero. Reimbursements provided to these owners would need to be adjusted to account for this change in deductible amounts. The SWRCB has determined that there may be as many as one hundred owners of residential tanks who were assigned Priority Class B with a \$5,000 deductible who are now eligible to be assigned a Priority Class A with no deductible.

Consequently, the SWRCB estimates that additional expenditures up to a maximum of approximately \$500,000 will be required to cover the increase in reimbursements the Fund must pay as a result of the change in deductible amounts for these residential tank owners. These additional expenditures would be paid

out of the Fund in the current and two subsequent fiscal years. The SWRCB has determined that it will be able to absorb these additional costs within its existing and projected budgets and resources.

Other Non-discretionary Cost or Savings Imposed on Local Agencies: The SWRCB has determined that there is no cost or savings imposed on local agencies as a result of the proposed amendments.

Cost or Savings in Federal Funding to the State: The SWRCB has determined that there is no cost or savings in Federal funding to the State as a result of the proposed amendments.

ECONOMIC IMPACT ESTIMATES

Statement of Significant Statewide Adverse Economic Impact Directly Affecting Business: The SWRCB has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Potential Cost Impacts on Private Persons or Businesses: The SWRCB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on the Creation or Elimination of Jobs within California: The SWRCB has determined that the proposed action will have no effect on the creation or elimination of jobs within California.

Effect on the Creation of New Businesses or Elimination of Existing Businesses within California: The SWRCB has determined that the proposed action will have no effect on the creation of new businesses or the elimination of existing businesses within California.

Effect on the Expansion of Businesses Currently Doing Business within California: The SWRCB has determined that the proposed action will have no effect on the expansion of businesses currently doing business within California.

Effect on Small Business: The SWRCB has determined that the proposed regulatory action will have no effect on small businesses because the proposed amendments do not impose any new burdens or benefits. The amendments merely clarify existing Fund regulatory requirements and reflect statutory changes to chapter 6.75 that took effect on January 1, 2002.

Consideration of Alternatives: In accordance with Government Code section 11346.5, subdivision (a)(13), the SWRCB must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which

the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The SWRCB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at any hearing that may be requested or during the written comment period.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The SWRCB has prepared an Initial Statement of Reasons for the proposed action. The statement includes the specific purpose for each amendment, interpretation, or requirement, and the factual basis for determining the necessity of each regulatory interpretation or requirement. The statement, the express terms of the proposed regulations, and all information on which the proposals are based are available from the agency contact person named in this notice.

The rulemaking file is available for inspection and copying throughout the rulemaking process at the Division of Financial Assistance, 1001 I Street, 17th Floor, Sacramento, California. As of the date that this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the text of the existing regulations, the express terms of the proposed regulations, and the Initial Statement of Reasons.

The rulemaking file will also be published and made available on the Division's internet website. This website address is:

<http://www.swrcb.ca.gov/cwphome/ustcf/index.html>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any hearing that is requested and considering all timely and relevant comments received, the SWRCB may adopt the proposed regulations substantially as described in this notice. If the SWRCB makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the SWRCB adopts the regulations as modified. A copy of any modified regulations may be obtained by contacting Mr. Wes Wilkinson, the primary contact person identified below. The SWRCB will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the persons

listed below. A copy may also be accessed on the Division website previously listed.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Wes Wilkinson, Regulations Coordinator
State Water Resources Control Board
Division of Financial Assistance
Underground Storage Tank Cleanup Fund
P.O. Box 944212
Sacramento, CA 94244-2120
Phone: (916) 341-5750
E-mail address: wwilkinson@cwpswrcb.ca.gov

The backup contact person for these inquiries is:

Doug Wilson, Chief, Administration and
Support Unit
State Water Resources Control Board
Division of Financial Assistance
Underground Storage Tank Cleanup Fund
P.O. Box 944212
Sacramento, CA 94244-2120
Telephone: (916) 341-5806
E-mail address: dwilson@cwpswrcb.ca.gov

Questions on the substance of the proposed regulations may be directed to either Mr. Wilkinson or Mr. Wilson.

Please direct to Mr. Wilkinson requests for copies of the proposed text (the "express terms") of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or any other information upon which this proposed rulemaking is based.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

NOTICE OF INTENT TO ADOPT REGULATIONS REGARDING GEOGRAPHIC ACCESSIBILITY STANDARDS

Section 1300.67.2.1

NOTICE IS HEREBY GIVEN

The Director of the Department of Managed Health Care (Director), pursuant to the rulemaking authority granted by sections 1344 and 1346 of the Health and Safety Code, proposes to implement, interpret and make specific section 1366.1 of the Health and Safety Code by amending section 1300.67.2.1 in Title 28, California Code of Regulations (CCR) relating to geographic accessibility standards.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Health Care (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD/ CONTACT PERSON

Notice is also given that any interested person may present statements or arguments relevant to the proposed action by a written communication addressed to, and received by, the Department's contact person identified below on or before 5 p.m. on **August 4, 2003**. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day. Written communications may also be sent to Lyn Amor Macaraeg via electronic mail at lmacaraeg@dmhc.ca.gov or via facsimile at (916) 322-3968.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires health care service plans to provide their enrollees reasonable geographical accessibility to health care services. Existing law establishes the standards of 15 miles or 30 minutes from the home or workplace of the enrollee as a presumptively reasonable standard and allows for a request for an alternative standard in certain circumstances.

Health and Safety Code sections 1366.1, added last year by SB 398, requires the Department to consider alternative standards proposed by a health care service plan for a county where the population is 500,000 or less and that as of January 1, 2002, there were 2 or fewer health care service plans offering countywide coverage in the commercial market. It also mandates a hearing process prior to withdrawal of a health care service plan from such a county. The proposed amendments to the Department's existing regulations are designed to implement these changes.

California Health and Safety code sections 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Act).

California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any

rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter. In addition, the Director may honor requests from interested parties for interpretive opinions.

California Health and Safety code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public.

The amendments to Rule 1300.67.2.1 will benefit enrollees because it will ensure that plans will have the necessary flexibility in some cases to adopt alternative standards for providing health care services in particular rural areas. This may present options for the plans rather than withdrawing from an area. The rule will further assure enrollees that, before withdrawing from a county, a plan will hold a public meeting in that county and that the meeting will be announced in a newspaper of general circulation in the county.

AUTHORITY

California Health & Safety Code sections 1344, 1346, 1366.1.

REFERENCE

California Health & Safety Code section 1366.1.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department has prepared and has available for public review the following documents:

1. An initial statement of reasons for the new and amended regulations;
2. Text of the legally effective regulations; and,
3. All information upon which this proposal is based (rulemaking file).

A copy of any or all of these items is available upon request by writing to the Department of Managed Health Care, ATTN: Ms. Lyn Amor Macaraeg, 980 9th Street, Suite 500, Sacramento, California 95814, which address will also be the location of public records, including reports, documentation, and other material related to this notice of proposed action. Additionally, a copy of the final statement of reasons (when prepared) will be available upon request by writing to the same address.

INTERNET AVAILABILITY

Materials regarding this notice of proposed action that are available via the Internet may be accessed at the following website:

<http://www.dmhc.ca.gov/library/regulations>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The text of any modified regulation, unless the modification is only nonsubstantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. The changes will be clearly indicated. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Director will accept written comments on the modified regulation for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

ALTERNATIVES CONSIDERED

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the comment period.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district for which CA Government Code section 17500–17630 requires reimbursement: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.
- Costs or savings in federal funding to the state: None.
- Effect on housing costs: None.
- The Department is not aware of any significant cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

DETERMINATIONS

The Director has determined that the proposed regulatory action:

- Has no economic impact on small businesses. Health care service plans are not a small business under CA. Government Code section 11342(h)(2).
- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to CA. Government Code section 17500 *et seq.*

- In this *initial* determination and pursuant to CA. Gov't Code 11346.5(a)(8), will not have a significant statewide adverse economic impact directly affecting business, including the ability of California to compete with businesses in other states.
- Pursuant to CA. Government Code section 11346.5(a)(10), does not significantly affect:
 - The creation of jobs in California;
 - The elimination of jobs in California;
 - The creation of new businesses in California;
 - The elimination of existing business in California;
 - The expansion of existing businesses in California.

CONTACT PERSON

Comments or inquiries and substantive questions concerning this proposed regulation may be directed to BRIAN J. BARTOW, Department of Managed Health Care, Office of Legal Services, 980 Ninth Street, Suite 500, Sacramento, California 95814, (916) 322-6727. The back-up contact person is: LYN AMOR MACARAEG, Department of Managed Health Care, Office of Legal Services, 980 Ninth Street, Suite 500, Sacramento, California 95814, (916) 322-6727.

GENERAL PUBLIC INTEREST

DEPARTMENT OF HEALTH SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH SERVICES INTENDS TO SEEK FEDERAL APPROVAL OF A STATE PLAN AMENDMENT FOR ENHANCED PAYMENTS TO PRIVATE TRAUMA HOSPITALS CONTRACTING WITH THE DEPARTMENT

This notice is provided to inform the public of the Department of Health Services' (DHS) intent to amend California's Medicaid State Plan to provide enhanced payments to private trauma hospitals in Los Angeles County subject to approval by the federal Centers for Medicare & Medicaid Services. The details of this program are described below.

ENHANCED PAYMENTS TO PRIVATE TRAUMA HOSPITALS IN LOS ANGELES COUNTY

Los Angeles County voters recently approved a measure to levy a special property tax that will be used, in part, to help build and sustain the "County-wide System of Trauma Centers." Measure B specifies that the funds are to be used to: maintain all aspects of the countywide system; expand the system to cover all

areas of the county; provide financial incentives to keep existing trauma centers within the system; and pay for the costs of trauma centers.

Under this program, Los Angeles County would transfer Measure B tax revenues to the State. These funds would constitute the non-federal share of the enhanced payments for Medi-Cal trauma and emergency room services provided to Medi-Cal beneficiaries by eligible private trauma hospitals. DHS would claim federal funds (federal financial participation) with respect to the enhanced payments. Accordingly, the enhanced payments to private trauma hospitals under this program will come from local public funds generated by Measure B and federal funds. No State General Funds will be expended. This program is scheduled to be effective July 1, 2003, after federal approval is obtained.

PUBLIC REVIEW

The proposed amendment to California's Medicaid State Plan, which details the changes discussed above, is available for review at local county welfare offices throughout the State. Copies of this notice may be requested and written comments may be sent to Nancy Hutchison, Chief, Long Term Care System Development Unit, Department of Health Services, 714 P Street, Room 1550, Sacramento, CA 95814.

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS

NOTICE OF DECISION ON PETITION TO ADOPT REGULATIONS

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Department of Corrections

PETITIONER

Brian Keith Barnett.

AUTHORITY

Under authority established in Penal Code (PC) Section 5058, the Director may prescribe and amend regulations for the administration of prisons. PC Section 5054 further vests with the Director, the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

CONTACT PERSON

Please direct any inquiries regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, P.O. Box 942883, Sacramento, CA 94283-0001, or telephone (916) 324-4331.

AVAILABILITY OF PETITION

The petition for amendment of the regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

It is the petitioner's contention that there is currently no such thing as the timely delivery of "special purchase order property" and therefore requests the adoption of a new rule which would direct the following: (1) The adoption of a Director's reviewed plan of operation by each facility head for the timely issuance and distribution of inmate "special purchase (as opposed to quarterly packages) property items;" (2) Require the delivery of such items within certain specified timeframes; (3) Direct correctional staff to be alert, diligent, and conscientious in processing such deliveries subject to disciplinary action, departmental liability, and inmate claim against the department and its employees; (4) Establish specific time requirements for forwarding or noticing the receipt of such items to transferred inmates.

DEPARTMENT DECISION

The Director of Corrections denies the petition to make the requested changes because the deficiency of existing regulations has not been proven.

Existing CCR §§ 3006, 3380(d), and 3131 already specify that the possession of inmate personal property shall be "as permitted in the institution's procedures" and that such procedures, including those governing the receipt of mailed packages, shall be submitted for Director approval. Therefore, no new additional regulatory authority to address the matters mentioned by the petitioner is actually required.

Existing CCR § 3138 specifies that the individual facilities will establish procedures for the receipt of inmate packages in accordance with the limits set for their assigned work/training incentive group. Contrary to the petitioner's assertions and complaints, the Department has discovered no systemic inadequacy in this existing rule. Therefore local operational practices, with respect to such matters as delivery timeframe or notifications, shall continue to be prevailing. Furthermore, existing CCR § 3147(a)(8) already establishes that mail will be forwarded "immediately" to transferred inmates, subject to a 60 day limitation on less than first class mail. Again, the need for new or alternative regulations has not been convincingly demonstrated.

Finally, existing CCR § 3391(a) already directs Departmental personnel to be alert, courteous and professional in their dealings with inmates and existing §§ 3391, 3084.1, and 3137 sets forth a process by which inmates (and others) may grieve, appeal, or file formal complaints about alleged misconduct, such as mishandling, arbitrarily refusal, conversion, or misissue of packages on the part of employees. Therefore, available regulatory remedies to any alleged "irresponsibility of staff" which has been offered by the petitioner as the reason for the adoption of the new rule as requested already exist. As no new rule is required and there is no deficiency in existing regulation, the petition must be denied.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

AAQS for Suspended Particulate Matter and Sulfates

This regulatory action adopts an annual arithmetic mean for 24 hour samples of Fine Suspended Particulate Matter (PM-2.5) and reduces the annual arithmetic mean for 24 hour samples of Suspended Particulate Matter (PM-10). This regulatory action also sets forth approved samplers, methods, and instruments for monitoring for compliance with the PM standards and makes other changes.

Title 17

California Code of Regulations

ADOPT: 70100.1 AMEND: 70100, 70200, Table of Standards

Filed 06/05/03

Effective 07/05/03

Agency Contact: Michael P. Kenny

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Code of Professional Conduct

This action adopts Codes of Professional Conduct governing licensed engineers and land surveyors.

Title 16
California Code of Regulations
ADOPT: 475, 476
Filed 06/04/03
Effective 07/04/03
Agency Contact: Donna J. Vaum (916) 263-2250

BUREAU OF AUTOMOTIVE REPAIR
Equipment Requirements; for Non-Enhanced Areas

This action amends regulations specifying the characteristics of automobile emissions test equipment required at testing stations in basic (less smoggy) areas and in areas where testing is only required upon transfer of ownership.

Title 16
California Code of Regulations
AMEND: 3303.2, 3340.15, 3340.16, 3340.16.6, 3340.17, 3340.18, 3340.32, 3340.41, 3340.42
Filed 06/09/03
Effective 07/09/03
Agency Contact: James Allen (916) 255-4300

BUREAU OF AUTOMOTIVE REPAIR
Mandatory Emissions Inspection Standards and Test Procedures

This action corrects two typos in Table II, Emission Standards and Gross Polluter Standards for Heavy-Duty Vehicles.

Title 16
California Code of Regulations
AMEND: 3340.42
Filed 06/04/03
Effective 06/04/03
Agency Contact: James Allen (916) 255-4300

**COMMISSION ON PEACE OFFICER
STANDARDS AND TRAINING**
Instructor Resume

This action clarifies the requirement for an instructor resume in an application for POST certification of a training course by adopting a required form that specifically identifies the instructor information to be included.

Title 11
California Code of Regulations
AMEND: 1053
Filed 06/06/03
Effective 07/06/03
Agency Contact: Leah Cherry (916) 227-3891

CONTRACTORS STATE LICENSE BOARD
Fees

This Certification of Compliance adopts the fees for licensure by the Contractor State Licensing Board. (Previous OAL file #02-1224-03E)

Title 16
California Code of Regulations
ADOPT: 811
Filed 06/05/03
Effective 06/05/03
Agency Contact: Andrea Steele (916) 255-4074

DEPARTMENT OF CORPORATIONS
Franchise Investment Law; Offering Circular and Internet Advertisements

In this regulatory action, the Department of Corporations amends and adopts regulations relating to the Franchise Investment Law. The Department amends an existing regulation pertaining to the content requirements for a franchise "offering circular." The Department adopts a regulation exempting certain franchise-related internet advertisements from statutory filing requirements when specified conditions are met.

Title 10
California Code of Regulations
ADOPT: 310.156.3 AMEND: 310.114.1
Filed 06/10/03
Effective 07/10/03
Agency Contact: Kathy Womack (916) 322-3553

DEPARTMENT OF DEVELOPMENTAL SERVICES
Respite Care Rate Increase

This certificate of compliance makes permanent the emergency amendment of section 57332 of title 17 of the California Code of Regulations, which established the maximum rate of reimbursement for in-home respite workers and vendors classified as respite facilities.

Title 17
California Code of Regulations
AMEND: 57332
Filed 06/05/03
Effective 06/05/03
Agency Contact: Mayra Jimenez (916) 654-1608

DEPARTMENT OF INSURANCE
Insurer Claims Settlement Practices

This action amends the definition of "proof of claim" as that term is used in the unfair claims settlement practices regulations.

Title 10
California Code of Regulations
AMEND: 2695.2
Filed 06/05/03
Effective 09/03/03
Agency Contact: Risa Salat-Kolm (415) 538-4127

DEPARTMENT OF MENTAL HEALTH
Non-LPS Act Patients' Rights and Procedures

This rulemaking action sets out patients' rights and related procedures for all non-Lanterman-Petris-Short (LPS) patients placed in or committed to a treatment

program in a Department of Mental Health facility, except when transferred to or placed in a federally certified program.

Title 9

California Code of Regulations

ADOPT: 880, 881, 882, 883, 884, 885, 886, 890, 891, 892

Filed 06/05/03

Effective 07/05/03

Agency Contact: Steven Appel (916) 654-4027

**DEPARTMENT OF TOXIC SUBSTANCES
CONTROL**

Conflict of Interest Code

This is a Conflict of Interest Code amendment that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 22

California Code of Regulations

AMEND: 66250.1, 66250.2

Filed 06/10/03

Effective 06/10/03

Agency Contact: Bonnie Amoruso (916) 322-2833

FAIR POLITICAL PRACTICES COMMISSION

Public identification of a Conflict of Interest

The Fair Political Practices Commission is amending section 18702, 18702.1, and adopting section 18702.5; and are repealing the current number 18702.5 and its title.

Title 2

California Code of Regulations

ADOPT: 18702.5 AMEND: 18702, 18702.1

Filed 06/10/03

Effective 06/10/03

Agency Contact: Galena West (916) 322-5660

FISH AND GAME COMMISSION

Hunter Harvested Deer & Elk Carcasses

This regulatory action restricts the importation of hunter-harvested deer and elk carcasses, except for certain body parts, to prevent the spread of chronic wasting disease.

Title 14

California Code of Regulations

ADOPT: 712

Filed 06/05/03

Effective 06/05/03

Agency Contact: John M. Duffy (916) 653-4899

FISH AND GAME COMMISSION

Habitat on Private Lands

This action would establish a process and conditions for exchanging an unfilled public hunt pronghorn antelope tag for a Private Wildlife Management Area

pronghorn antelope tag. This action would also increase the fee schedule for Private Wildlife Management Area licenses and hunting tags.

Title 14

California Code of Regulations

AMEND: 601

Filed 06/10/03

Effective 07/10/03

Agency Contact: John M. Duffy (916) 653-4899

**OCCUPATIONAL SAFETY AND HEALTH
(CAL-OSHA) DIVISION**

Elevator Conveyance Inspection Program Fees

This emergency regulatory action adopts fees for inspection of various types of conveyances. (Previous OAL file # 02-1221-01E)

Title 8

California Code of Regulations

AMEND: 344.30

Filed 06/09/03

Effective 06/09/03

Agency Contact:

Christopher P. Grossgart (415) 703-5080

**OFFICE OF SPILL PREVENTION AND
RESPONSE**

Local Government Grant Program

This action amends provisions governing the local government oil spill contingency plan and grant program.

Title 14

California Code of Regulations

AMEND: 852.60.1, 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.4, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3

Filed 06/06/03

Effective 07/09/03

Agency Contact:

Joy D. Lavin-Jones (916) 327-0910

**STATE WATER RESOURCES CONTROL BOARD
Amd to Basin Plan to Update Ammonia WQOs**

This action updates the water quality control plan for the Los Angeles region by revising the ammonia limits set forth as the objectives for water quality based upon the USEPA's 1999 criteria for ammonia and adopts various methods for measurement related to implementation of the limits.

Title 23

California Code of Regulations

ADOPT: 3939.1

Filed 06/05/03

Effective 06/05/03

Agency Contact: Greg Frantz (916) 341-5553

STATE WATER RESOURCES CONTROL BOARD
Nitrogen TMDL for Calleguas Creek, its Tributaries
and Mugu Lagoon

Los Angeles Regional Water Quality Control Board (Regional Board) Resolution No. 02-017, adopted on October 24, 2002 by the Regional Board, modified the regulatory provisions of the Water Quality Control Plan for the Los Angeles Region by establishing a Total Maximum Daily Load (TMDL) for nitrogen compounds in Calleguas Creek, its tributaries, and Mugu Lagoon. The TMDL specifies concentration-based targets for ammonia, nitrate, nitrite, and combined nitrate and nitrite, which must be fully attained seven years after the effective date of the TMDL. The TMDL includes a margin of safety with both implicit and explicit components. The TMDL establishes a four-year plan for reducing nitrogen loading from five wastewater treatment plans in the watershed. To allow time to meet the targets, interim limits will be allowed. The final wasteload allocations for ammonia assigned to the wastewater treatment plants must be met no later than October 24, 2004, and the final wasteload allocations for nitrate and nitrite must be met four years after the effective date of the TMDL. Load allocations for agriculture and other nonpoint source discharges are implemented through various management practices. One year after the effective date of the TMDL, monitoring plans to evaluate the effectiveness of the TMDL must be submitted to the Regional Board by Calleguas Creek Watershed Management Plan Water Resources/Water Quality Subcommittee (CCWMP). CCWMP is responsible for the watershed monitoring and special studies required by this TMDL. The special studies must be completed five years after the effective date of the TMDL.

Title 23

California Code of Regulations

ADOPT: 3939

Filed 06/05/03

Effective 06/05/03

Agency Contact: Joanna Jensen (916) 657-1036

VICTIM COMPENSATION AND GOVERNMENT
CLAIMS BOARD

Outpatient Mental Health Service Limitations

The Victim Compensation and Government Claims Board (Board) administers the Victim Compensation Program which assists eligible victims who incur certain expenses as a direct result of crimes. Subdivision (a)(2) of Government Code section 13957 imposes monetary caps on the amount of reimbursement for outpatient mental health counseling. The Board is authorized by subdivision (a) of Government Code section 13957.2 to establish service limitations for reimbursement for mental health counseling

services. This filing is a readoption of an emergency regulatory action which imposed such service limitations and provided for the audit of mental health counseling providers.

Title 2

California Code of Regulations

ADOPT: 649.23, 649.24, 649.25

Filed 06/04/03

Effective 06/04/03

Agency Contact:

Judith A. Kopec

(916) 327-4016

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN FEBRUARY 5, 2003
TO JUNE 11, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

05/08/03 REPEAL: 121, 122, 123, 124, 125, 125.5, 126, 127, 128, App. A (Form 1013)

Title 2

06/10/03 ADOPT: 18702.5 AMEND: 18702, 18702.1

06/04/03 ADOPT: 649.23, 649.24, 649.25

05/08/03 AMEND: 2970

05/07/03 ADOPT: 471.1 AMEND: 470, 470.1, 471, 472, 17502, 17520

05/07/03 AMEND: 547.80, 17030, 17111, 17112, 17151 REPEAL: 547.81, 17434

05/01/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153

04/28/03 AMEND: 1897

04/21/03 ADOPT: 1185.02, 1186 AMEND: 1181.1, 1183, 1183.01, 1185, 1185.01, 1185.02, 1185.1, Article 6 title. REPEAL: 1185.2, 1186, 1186.1, 1186.2, 1186.3, 1188.5

04/10/03 AMEND: 18313

04/09/03 ADOPT: 18550.1 AMEND: 18225.7

04/04/03 AMEND: 599.885

04/03/03 AMEND: 599.515

04/03/03 ADOPT: 23000, 23100, 23100, 23200, 23300

04/01/03 AMEND: 52.4

03/27/03 ADOPT: 18754

03/24/03 AMEND: 321
 02/28/03 AMEND: 599.931
 02/27/03 ADOPT: 1859.2, AMEND: 1859.2,
 1859.20, 1859.21, 1859.74.2, 1859.74.3,
 1859.74.4, 1859.75, 1859.75.1,
 1859.78.3, 1859.79, 1859.81.1, 1859.83,
 1859.107, 1859.145
 02/25/03 REPEAL: 18707.3
 02/24/03 ADOPT: 2430, 2431, 2432, 2433, 2434,
 2435, 2436, 2437, 2438, 2439, 2440,
 2441, 2442, 2443, 2444, 2445
 02/24/03 AMEND: 18312
 02/19/03 AMEND: 1859.79, 1859.79.3, 1859.81.1,
 1859.83, 1859.107
 02/18/03 AMEND: 18991
 02/18/03 AMEND: 18704.2
 02/13/03 AMEND: 1859.77.2
 02/13/03 ADOPT: 1859.160, 1859.161, 1859.162,
 1859.162.1, 1859.163, 1859.164,
 1859.164.1, 1859.165, 1859.166,
 1859.166.1, 1859.167, 1859.168,
 1859.169, 1859.170, 1859, 171 AMEND:
 1859.2, 1859.51, 1859.103, 1859.106,
 1859.145.1
 02/11/03 AMEND: 1897
 02/11/03 AMEND: 1555
 02/06/03 ADOPT: 1859.74.5, 1859.74.6,
 1859.81.2, 1859.81.3, 1859.105.2
 AMEND: 1859.2, 1859.74, 1859.76,
 1859.77.1, 1859.81.1, 1859.90, 1859.103,
 1859.104
 02/06/03 ADOPT: 50

Title 3

06/03/03 AMEND: 3417
 06/02/03 REPEAL: 796
 05/28/03 ADOPT: 1392.12
 05/22/03 AMEND: 6860
 05/19/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
 6784 AMEND: 6000 REPEAL: 6450,
 6450.1, 6450.2, 6450.3, 6784
 05/05/03 ADOPT: 1310, 1310.1, 1310.2, 1310.3
 04/24/03 AMEND: 6000, 6710
 04/21/03 AMEND: 3423(b)
 04/21/03 AMEND: 3417(b)
 04/15/03 AMEND: 3423(b)
 04/08/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4,
 760.5, 760.6 760.7, 760.9 REPEAL: 760,
 765
 04/07/03 AMEND: 3417(b)
 04/03/03 AMEND: 300(c)
 04/01/03 AMEND: 3417(b)
 03/26/03 ADOPT: 797
 03/20/03 AMEND: 3700(c)
 02/06/03 ADOPT: 3650, 3651, 3652, 3653, 3654,
 3655, 3656, 3657, 3658, 3659, 3660,
 3661, 3662, 3663, 3663.5

Title 4

05/22/03 ADOPT: 12300, 12301, 12302, 12304,
 12305, 12306, 12307, 12308, 12309,
 12310 AMEND: 12301, 12303, 12309
 04/09/03 AMEND: 1467
 03/06/03 AMEND: 8072, 8074
 02/13/03 ADOPT: 10151, 10152, 10153, 10154,
 10155, 10156, 10157, 10158, 10159,
 10160, 10161, 10162

Title 5

05/15/03 ADOPT: 24000, 24001, 24002, 24003,
 24004, 24005, 24006, 24007, 24008,
 24009
 05/01/03 ADOPT: 1218.5 AMEND: 1200, 1204,
 1209, 1211, 1212, 1215, 1216, 1217,
 1217.5, 1219, 1219.5, 1220, 1225
 04/21/03 ADOPT: 11990
 04/15/03 AMEND: 18106
 04/14/03 AMEND: 11510, 11512.5(a)(11), 11517
 REPEAL: 11510(j)
 04/07/03 ADOPT: 80020.1
 04/03/03 ADOPT: 11971, 11972, 11973, 11974,
 11975, 11976, 11977, 11978, 11979,
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 03/18/03 AMEND: 20438, 20440
 03/12/03 ADOPT: 53207
 02/24/03 AMEND: 18301
 02/14/03 ADOPT: 54400

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06/03/03 AMEND: 201, 202, 203, 204, 208, 209,
 210, 211, 213, 214, 215, 216, 217, 218,
 219, 220, 221, 222

Title 8

06/09/03 AMEND: 344.30
 06/02/03 AMEND: 4821
 05/30/03 ADOPT: 15220, 15220.1, 15220.2,
 15220.3, 15220.4, 15220.5, 15220.6,
 15220.7, 15220.8 AMEND: 15201,
 15210, 15210.1, 15210.2, 15216, 15430
 05/29/03 AMEND: 5161, 5164
 05/27/03 AMEND: 5214
 05/20/03 AMEND: 9785, 9785.2, 9785.3, 9786,
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 05/07/03 ADOPT: 20400, 20401, 20402, 20403,
 20404, 20405, 20406, 20407, 20408,
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 05/01/03 AMEND: 10122, 10133.15, 10133.16
 05/01/03 AMEND: 10106.1, 10107.1, 10111.2
 04/09/03 AMEND: 15210
 04/07/03 AMEND: 15251
 03/26/03 AMEND: 3279, 3280
 03/03/03 ADOPT: 17000 REPEAL: 17000
 02/24/03 AMEND: 451, 527

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06/05/03 ADOPT: 880, 881, 882, 883, 884, 885,
886, 890, 891, 892
05/20/03 ADOPT: 7149.1 AMEND: 7174
03/25/03 AMEND: 821
02/20/03 AMEND: 9100

Title 10

06/10/03 ADOPT: 310.156.3 AMEND: 310.114.1
06/05/03 AMEND: 2695.2
06/03/03 AMEND: 2509.40, 2509.41, 2509.42,
2509.43, 2509.44, 2509.45, 2509.46,
2509.47, 2509.48, 2509.49, 2509.50,
2509.51, 2509.52, 2509.53, 2509.54,
2509.55, 2509.56, 2509.57, 2509.58,
2509.59, 2509.60, 2509.61, 2509.62,
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06/03/03 ADOPT: 2615, 2615.1, 2615.2, 2615.3
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2698.99.12, 2698.99.13
05/20/03 AMEND: 2699.100, 2699.200, 2699.201,
2699.202, 2699.205, 2699.206, 2699.207,
2699.210, 2699.300, 2699.301, 2699.303,
2699.304, 2699.400
05/06/03 ADOPT: 2498.6
04/29/03 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,
2192.10, 2192.11, 2192.12, 2192.13 RE-
PEAL: 01-0905-01E, 02-0129-02 EE,
02-0531-04 EE
04/24/03 ADOPT: 2695.85 AMEND: 2695.1,
2695.2, 2695.3, 2695.4, 2695.5, 2695.6,
2695.7, 2695.8, 2695.9, 2695.10,
2695.11, 2695.12, 2695.14
04/24/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3,
2278.4, 2278.5
04/17/03 AMEND: 5002
03/27/03 AMEND: 260.211, 260.211.1
03/20/03 ADOPT: 2187.4
03/20/03 ADOPT: 2698, 9910, 2698.99.11,
2698.99.12, 2698.99.13
03/13/03 ADOPT: 2020, 2021 AMEND: 250.51
03/10/03 ADOPT: 2175, 2175.1, 2175.2, 2175.3,
2175.4, 2175.5, 2175.6, 2175.7, 2175.8,
2175.9, 2175.10, 2176, 2176.1, 2176.2,
2176.3, 2176.4, 2177, 2177.1, 2177.2,
2177.3, 2177.4, 2177.5, 2177.6, 2177.7,
2177.8., 2177.9, 2177.10, 2177.11,
2177.12, 2177.13, and 2177
03/10/03 ADOPT: 2670.1, 2670.2, 2670.3, 2670.4,
2670.5, 2670.6, 2670.7, 2670.8, 2670.9,
2670.10, 2670.11, 2670.12, 2670.13,
2670.14, 2670.17, 2670.18, 2670.19,
2670.20, 2670.21, 2670.22, 2670.23,
2670.24,
03/06/03 AMEND: 2130.3

03/04/03 ADOPT: 260.230, 260.230.1, 260.231.2,
260.231.3, 260.236.1, 260.236.2,
260.237.2 AMEND: 260.231, 260.236,
260.237.1, 260.240, 260.241.2,
260.241.3, 260.241.4, 260.242
02/27/03 ADOPT: 5.6182, 5.6183, 30.30, 30.31,
30.40, 30.41, 30.50, 30.51, 30.60, 30.61,
30.70, 30.71, 30.72, 30.73, 30.105,
30.402, 30.406, 30.500, 30.802, 30.1000
AMEND: 30.101, 30.102, 30.103,
30.300, 30.301, 30.302, 30.304, 30.306,
30.401, 30.403, 30.404, 30.
02/13/03 AMEND: 3200
02/11/03 AMEND: 2646.6 REPEAL: 2646.7,
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06/06/03 AMEND: 1053
06/02/03 AMEND: 1003
05/05/03 AMEND: 1005
04/07/03 AMEND: 1005, 1052, D-2
04/03/03 ADOPT: 977.52 AMEND: 977.20,
977.43, 977.44, 977.45, 977.50, 977.51
02/06/03 AMEND: 1005, 1070, 1082

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05/29/03 AMEND: 3000

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05/12/03 ADOPT: 147.00
05/12/03 ADOPT: 2700, 2701, 2702, 2703, 2704,
2705, 2706, 2707, 2708, 2709, 2710
05/07/03 ADOPT: 82.00
05/06/03 AMEND: 1239
05/01/03 ADOPT: 2273.5 AMEND: 2260, 2261,
2262.6, 2263, 2272, 2273
04/17/03 AMEND: 115.07
04/17/03 ADOPT: 157.00
04/16/03 AMEND: 1956.8
04/14/03 AMEND: 2412(b)
03/03/03 ADOPT: 225.00, 225.06, 225.12, 225.15,
225.21, 225.24, 225.27, 225.30, 225.33,
225.39, 225.48, 225.57, 225.60, 225.66,
and 225.69 AMEND: 225.03, 225.09,
225.18, 225.36, 225.42, 225.45, 225.51,
225.54, 225.63, and 225.72
02/21/03 AMEND: 110.04
02/18/03 REPEAL: 260.01, 262.00, 262.05
02/06/03 AMEND: 55.17

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06/10/03 AMEND: 601
06/06/03 AMEND: 852.60.1, 852.60.2, 852.60.3,
852.60.4, 852.61.1, 852.61.2, 852.61.3,
852.61.4, 852.61.5, 852.61.6, 852.61.7,
852.61.8, 852.61.9, 852.61.10, 852.61.11,
852.61.12, 852.62.1, 852.62.2, 852.62.3
06/05/03 ADOPT: 712
06/02/03 AMEND: 17946, 17949

05/30/03 ADOPT: 3704.1
 05/28/03 ADOPT: 18456.4, 18460.1.1 AMEND:
 18449, 18450, 18451, 18453, 18453.2,
 18454, 18455, 18456, 18456.1, 18456.2,
 18456.3, 18457, 18458, 18459, 18459.1,
 18459.2, 18459.3, 18460.1, 18460.2,
 18461, 18462, 18463, 18465 REPEAL:
 18452, 18457.1, 18460, 18464
 05/22/03 AMEND: 11303, 11386
 05/05/03 ADOPT: 11021
 05/01/03 AMEND: 27.80
 04/30/03 AMEND: 791.7, 870.15, 870.17, 870.19,
 870.21,
 Form FG OSPR-1972
 04/30/03 AMEND: 6504, 6578.4, 6600.1
 04/28/03 AMEND: 2930
 04/17/03 AMEND: 11945
 04/15/03 ADOPT: 3704.1
 04/15/03 ADOPT: 1.39, 1.49, 27.83 AMEND:
 27.82
 04/14/03 ADOPT: 1.92 AMEND: 671, 671.1
 04/08/03 AMEND: 791.7
 04/07/03 ADOPT: 4970.09 AMEND: 4970.00,
 4970.01, 4970.02 4970.03, 4970.04,
 4970.05, 4970.06, 4907.07, 4970.08,
 4970.10, 4970.11, 4970.12, 4970.13,
 4970.14, 4970.15, 4970.16, 4970.17,
 4970.18, 4970.19, 4970.20, 4970.21,
 4970.22, 4970.23, 4970.24, 4970.25,
 4970.2
 04/04/03 ADOPT: 17853.0, 17854, 17588.2,
 17855.4, 17857.1, 17859.1, 17863.4,
 17867.5, 17868.5, 18227 AMEND:
 17850, 17852, 17855, 17862, 17862.1,
 17863, 17865, 17866, 17867, 17868.1,
 17868.2, 17868.3, 17869, 17870, 18103.1
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 04/04/03 ADOPT: 17211, 17211.1, 17211.2,
 17211.3, 17211.4, 17211.5, 17211.6,
 17211.7, 17211.8, 17211.9
 04/01/03 AMEND: 2090, 2105, 2420, 2425, 2530 ,
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 04/01/03 ADOPT: 17225.710, 17225.717,
 1225.720, 17225.725, 17225.750,
 17225.755, 17225.760, 17225.770,
 17225.795, 17225.800, 17225.820,
 18478.5, 18494.5, 18499.1, 18499.2,
 18499.3, 18499.4, 18499.5, 18499.6.,
 18499.7, 18499.8, 18499.9 AMEND:
 17225.715, 17350, 173
 03/27/03 AMEND: 708
 03/26/03 AMEND: 120, 120.3
 03/26/03 AMEND: 150.02, 150.04
 03/10/03 ADOPT: 150.05 AMEND: 150, 150.03
 03/10/03 ADOPT: 632 AMEND: 630
 03/06/03 AMEND: 18464, 18465

03/05/03 ADOPT: 18360, 18361, 18362, 18363,
 18364, 18365, 18366 18367, and 18368
 03/04/03 ADOPT: 749.2
 03/04/03 AMEND: 180.2
 03/04/03 ADOPT: 15251
 02/27/03 ADOPT: 105.5 AMEND: 195
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Title 15

05/27/03 AMEND: 3097
 05/22/03 AMEND: 3170, 3170.1, 3171, 3172,
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 05/19/03 AMEND: 4941
 05/06/03 AMEND: 3041.3(b)
 04/15/03 REPEAL: 3901.1, 3901.1.2, 3901.3.1,
 3901.5.1, 3901.5.2, 3901.5.3, 3901.5.4,
 3901.5.5, 3901.5.6, 3901.7.1, 3901.7.2,
 3901.7.3, 3901.9.2, 3901.9.3, 3901.9.5,
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 3901.15.2, 3901.15.3, 3901.15.4,
 04/08/03 AMEND: 3025, 3315
 03/18/03 AMEND: 3006
 03/06/03 ADOPT: 3375.5 AMEND: 3000, 3375,
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 02/18/03 ADOPT: 3054.2(e)(2)(H), 3170, 3170.1,
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 REPEAL: 3170, 3170.5, 3171, 3172,
 3173, 3174, 3175, 3176, 3177, 3178,
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06/09/03 AMEND: 3303.2, 3340.15, 3340.16,
 3340.16.6, 3340.17, 3340.18, 3340.32,
 3340.41, 3340.42
 06/05/03 ADOPT: 811
 06/04/03 AMEND: 3340.42
 06/04/03 ADOPT: 475, 476
 06/02/03 AMEND: 407
 05/27/03 AMEND: 1845, 1858, 1881
 05/27/03 ADOPT: 2317, 2317.1, 2317.2, 2326.5,
 2328.1
 05/22/03 ADOPT: 1073.2
 05/15/03 ADOPT: 642
 05/05/03 AMEND: 2602, 2603, 2604, 2606, 2610,
 2614, 2615, 2616, 2620, 2620.5, 2621,
 2623, 2624, 2630, 2630.2, 2630.3, 2649,
 2655, 2656
 05/02/03 AMEND: 1953
 05/01/03 AMEND: 2602, 2615, 2620
 04/30/03 ADOPT: 1070.2 AMEND: 1070, 1070.1
 04/28/03 AMEND: 3340.1, 3392.1, 3392.2,
 3392.3, 3392.5, 3392.6 REPEAL: 3392.4
 04/25/03 ADOPT: 1313.01, 1313.02, 1313.03,
 1313.04, 1313.05, 1313.06

04/24/03 AMEND: 1444.5
 04/24/03 AMEND: 1320
 04/21/03 ADOPT: 1399.380, 1399.381, 1399.382,
 1399.383, 1399.384, 1399.385, 1399.387,
 1399.388, 1399.389, 1399.390 AMEND:
 1399.302, 1399.370, 1399.374, 1399.376,
 1399.380 REPEAL: 1399.375
 04/14/03 AMEND: 109, 111
 04/08/03 AMEND: 2070, 2071
 04/08/03 AMEND: 1017
 04/07/03 ADOPT: 3504.5
 04/07/03 AMEND: 1381, 1390, 1397.64
 03/13/03 AMEND: 1807.2
 03/13/03 AMEND: 404
 03/06/03 AMEND: 1393
 03/03/03 AMEND: 1397.12
 03/03/03 AMEND: 3340.1
 02/18/03 AMEND: 87, 89.1
 02/13/03 AMEND: 1399.508
 02/11/03 AMEND: 1388, 1392
 02/11/03 AMEND: 1720.1
 02/10/03 AMEND: 1717, 1745
 02/06/03 AMEND: 1082.1

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06/05/03 ADOPT: 70100.1 AMEND: 70100,
 70200, Table of Standards
 06/05/03 AMEND: 57332
 05/27/03 AMEND: 54327, 54327.1, 56002
 05/15/03 AMEND: 58420
 05/08/03 ADOPT: 10300, 10302, 10305, 10310,
 10315, 10317, 10320, 10322, 10325,
 10326, 10327, 10328, 10330, 10335,
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 04/21/03 ADOPT: 1968.2, 1968.5
 04/14/03 ADOPT: 13676 AMEND: 13675
 03/13/03 ADOPT: 1031.2, and 1031.3
 03/13/03 AMEND: 94011
 02/27/03 AMEND: 6020, 6025, 6035, 6050, 6051,
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 02/27/03 AMEND: 60201
 02/25/03 ADOPT: 6903 (b)
 02/10/03 ADOPT: 30315.10, 30315.20, 30315.22,
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